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International Court of Justice

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Official transcript of the International Military Tribunal in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nuremberg, Germany on 10 April 1946, 1000-1300, Lord Justice Lawrence presiding.

DR. THOMA (Counsel for defendant Rosenberg): Mr. President, the High Tribunal, I stated yesterday that Labouche was not marked in my document book and that I would read it. My assertion was not correct. I made this assertion for the following reasons:

Rosenberg sent me a note while I was delivering my case which said that the passages in the document book to be cited are marked in red; the other parts did not have to be translated. The passages that the French referred to had not been anticipated. I consequently assume that these did not have to be translated. This communication from Rosenberg, however, had a different meaning. Rosenberg had made a sign in certain documents that were outlined in red to indicate that these passages did not have to be read; that includes the quotation from Labouche. Consequently, the error which took place.

I also said yesterday that the passage cited by Justice Jackson was incorrectly translated. That, too, was an error. I apparently committed this error because the emphasis of a certain word in it struck me as peculiar.

I request the translation department to pardon me. The document book itself---

THE PRESIDENT: Dr. Thoma, the Tribunal quite understands that there must have been some mistake, and no one, I hope -- and certainly not the Tribunal -- is accusing you of any bad faith in the matter at all. The Tribunal quite understands that there must have been some misunderstanding or some mistake which led to whatever has happened.

DR. THOMA: Thank you.

DR. NELTE: (Counsel for Defendant Keitel): Mr. President, permit me to ask the Tribunal a short question related to procedure matters in the case of Westhoff. I yesterday stated the reasons why I believed I could forego calling

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the witness Westhoff. The Prosecution has cleared up this error; consequently my assumption is no longer true. I should like to ask the Tribunal whether the original situation is thereby automatically restored, and can I also cross examine this witness as a defense witness or must I make a formal application to call him as a defense witness?

THE PRESIDENT: No, Dr. Nelte, the Tribunal does not desire you to make any formal application. You can ask the witness any questions when he has answered the questions which the Tribunal will put to him, and the Prosecution, of course, can also ask him questions.

DR. NELTE: Thank you.

THE PRESIDENT: Now, Dr. Seidl, I think you wanted to put some questions to this witness, did you not, on behalf of the defendant Frank? We hope that they will not be very long.

BY DR. SEIDL (Counsel for defendant Frank):

Q. Witness, the Prosecution asked you a questinn yesterday in connection with the AB Action; namely, that was part of the general pacifying measures. It was necessary in connection with uprisings in the year 1940 in the General Government in Poland. In this connection the Prosecution read you a quotation from Frank's Diary of the 16th of May, 1940. I want to read to you one further sentence from this same citation from the Diary. It reads as follows:

"Every arbitrary action is to be prevented with the most astringent measures. In every case the point of view must be regarded that takes into consideration the necessary security of the Fuehrer and of the Reich. Moreover, action will be postponed until the 15th of June."

The Prosecution then read another citation from the 30th of May, from which one could deduce--

THE PRESIDENT: The Tribunal does not think that you really can read passages of Frank's Diary to the witness. I mean, you are re-examining to clear up. He had not seen the diary.

DR. SEIDL: I shall ask him a question in preparation for which I must read another quotation; otherwise he will not understand the

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question.

THE PRESIDENT: What is the question? You can put the diary to Frank when you call Frank.

DR SEIDL The witness was heard yesterday in connection with this AB Action, and he was presented with a passage from this diary that must have given him the impression that a large number of Poles had been shot without any trial.

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THE PRESIDENT: What question do you want to put?

DR. SEIDL: I should like to ask him whether he knows Ministerialrat Wille, what position he occupied in the General Government and in what way Dr. Wille worked, if he was involved within the framework of this action.

THE PRESIDENT: Well, ask him that if you like, but the diary has no relevance to that question at all.

DR. SEIDL: But he can only answer the question sensibly if I first show him the corresponding passage from the diary. Otherwise he doesn't see the connection.

THE PRESIDENT: The Tribunal doesn't see the connection, either -- and the Tribunal thinks there is no point in reading the diary to him.

DR. SEIDL: That will become immediately apparent once I read the passage. I therefore ask to be allowed to read one more passage from the diary.

THE PRESIDENT: No, Dr. Seidl. You can ask him your question but you can't read the diary to him. You stated what the question was, whether he knew somebody held a certain position in the General Government. You can ask him that question.

Q Witness, do you know Ministerialrat Wille?

A No, I don't remember him.

Q You do not know that he was the head of the Justice Department in the General Government?

A No; that, too, I do not remember.

DR. SEIDL: Then the one question is already settled.

The second question that I should like to ask the witness is related again to an entry in Frank's diary, in connection with concentration camps. I can ask this question only if I am permitted to read a passage from the diary.

THE PRESIDENT: Tell us what the question is.

DR. SEIDL: The question would have read: Is the point of view expressed in the entry in the diary that I intended to read, the correct point of view? And does it correspond to his previous statements on Monday or is the point of view correct which the Prosecution deduced from the passage, which the Prosecution read from the diary yesterday?

(A short pause.)

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THE PRESIDENT: Well, the Tribunal thinks you can put the question, if you put it in the form: Do you know what was the attitude of Frank towards concentration camps? -- if you pit it in that way -- and what was that attitude.

DR. SEIDL: Mr. President, this question was already answered by the witness in his examination-in-chief. He answered that Frank had a negative attitude toward concentration camps. Yesterday, however, a passage was read from Frank's diary which seemed to prove the opposite. However, there are dozens of passages in Frank's diary that corroborate the statement of the witness and which considered what the Prosecution brought up. I can honestly ask a sensible question only if I read some of these other passages.

THE PRESIDENT: Dr. Seidl, all those matters can be gone into with Frank. You can prove every passage in the diary which is relevant, and you can put the most necessary ones to Frank.

DR. SEIDL: The third question would have been related to the telegram --

THE PRESIDENT: It is only a very exceptional privilege that you as Counsel for Frank are allowed to re-examine at all, and the Tribunal have expressed that they do not think this is a matter on which you ought to be allowed to re-examine. The person to re-examine is the one who calls a witness in the first place. We can't allow, in ordinary cases, re-examination by everyone.

DR. SEIDL: I therefore renounce any further questions to this witness.

THE PRESIDENT: Then the witness can retire.

(The witness left the court room.)

And now the Tribunal wishes to have General Westhof brought in.

(A new witness entered the box.)

Sir David, could you find me the German version of General Westhof's statement in these papers here?

SIR DAVID MAXWELL-FYFE: I looked for it, but couldn't find it, my Lord.

ADOLF WESTHOF, a witness, took the stand and testified as follows:

EXAMINATION

BY THE PRESIDENT:

Q Your full name?

A Adolf Westhof.

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Q Will you repeat this oath after me: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

Q You may sit down. General Westhof, you made a statement before a Captain J.B. Parnell, did you not?

A I don't remember his name. I made a statement in England.

Q Yes. On the 13th of June, 1945?

A That is possible, yes.

Q You don't know English, I suppose.

A No.

Q Well, I will read you -- has the Prosecution got another copy of this document?

SIR DAVID MAXWELL-FYFE: An English copy?

THE PRESIDENT: Yes. Well, Sir David, if you would follow me whilst I read it and draw my attention to any passages which are really relevant --

SIR DAVID MAXWELL-FYFE: Yes.

THE PRESIDENT: It is a rather long document. I don't wish to read it all to the witness.

Q What the Tribunal wants to know, General Westhof, is whether you adhere to this statement or whether you wish to make any alterations in it. And I will read to you, so that you may remember it, the material passages from the statement.

A Very well.

Q "I was in charge of the general department when the shooting of the escaped R.A.F. Prisoners of war from Stalag Luft 3 took place. It was the first occasion on which Field Marshal Keitel sent for me. I went with General von Graevenitz. He had been sent for and I was to accompany him. A certain number of officers had escaped from the Sagan camp. I don't remember how many, but I believe about eighty"--

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DR. NELTE: (Counsel for defendant Keitel); Could I be of service to the Tribunal by offering you the German translation of this document and give it to the witness?

THE PRESIDENT: Yes, thank you.

SIR DAVID MAXWELL-FYFFE: I am very grateful to Dr. Nelte.

Q General Westhoff, would you read that statement of yours through as quickly as you can? You will be able to see what are the really material passages, and then tell the Tribunal whether that statement is correct.

A Yes.

(A brief pause)

DR. NELTE: Mr. President, here is another part of this declaration. It is a very extensive document. Could I also submit this to the witness?

THE PRESIDENT: Do you mean that he has not the whole document?

DR. NELTE: No, he does not have all of it yet.

THE PRESIDENT: Oh, yes, certainly.

DR. NELTE: I received from the Prosecution three sections which I should now like to give him. Then he would have it in total.

THE PRESIDENT: The statement that we have here in English is five pages in type, and is certified in this way:

"This appendix contains an accurate translation of oral statements made to me by Major General Westhoff on 13 June 1945 in reply to questions concerning the shooting of 50 RAF officers from Stalag Luft 3. Dated this 23rd day of the ninth month, 1945. J.E.Parnell, Captain, Intelligence Corps."

Is that on--

DR. NELTE: I do not know whether General Weshoff was not perhaps interrogated several times. In this document he also made statements regarding the whole policy regarding prisoners of war. In other words, not explicitly about the case of the 50 executed officers. This is a continuous report.

THE PRESIDENT: The only document which is in evidence is this document, which I have in my hand, which is annexed to the report of Brigadier Capcott.

SIR DAVID MAXWELL-FYFFE: I have looked at the document, the part that Dr. Nelte has. I think my German is sufficient to identify it. It is the same document. If Your Lordship will look at Page 2, Your Lordship will see the passage

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"General Inspector, General Roettich". My Lord, that is where it starts, and I have checked it as to the last paragraph. It is the same, "I cannot remember having received any reports." As far as my German goes, that is the same here, so this part of the document is the last half of the document that Your Lordship has.

THE PRESIDENT: I see, yes, Dr. Nelte and Sir David, perhaps the best course would be if Sir David put the passages upon which he relies to the witness, and the witness could then be asked whether those were accurate.

SIR DAVID MAXWELL-FYFFE: Yes.

THE PRESIDENT: And Dr, Nelte can ask any questions that he wants to after that

THE PRESIDENT: Witness, Counsel is going to ask you questions upon this document now, so you need not go on reading.

EXAMINATION

BY SIR DAVID MAXWELL-FYFFE:

Q Have you had a chance of reading the first paragraph of this statement?

A Yes, I have read it.

Q And is that correct; is that true?

A There are a few things in it that are not entirely correct. For instance, on the first page--

Q Shall I read it to you and see how far it is correct:

"I was in charge of the general department (Abteilung Allgemain) when the shooting of the escaped FAR prisoners of war from Stalag Luft 3 took place." That is correct, is it not?

A The phrase missing, "when the shooting took place."

Q Now, "It was the first occasion on which Field Marshal Keitel had sent for me. I went to General von Graevenitz. He had been sent for, and I was to accompany him." Is that right?

A Yes.

Q "A certain number of officers had escaped from the Sagan Camp. I cannot remember how many, but I believe about 80." That is correct, too?

A Yes.

Q Now, the next sentence: "When we entered, the Field Marshal was very excited and nervous and said, 'Gentlemen, this is a bad business.'" Is that correct?

A Yes.

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Q Then, "We were always blamed when prisoners of war escaped. We could not tie them to our apron strings." That is your own comment. Then you go on to say as to what the Field Marshal said: "This morning Goering reproached me in the presence of Himmler for having let more prisoners of war escape. It was unheard of." You go with your comment. Is that correct-- that the Field Marshal said, "This morning Goering reproached me in the presence of Himmler for having let some more prisoners of war escape"?

A No, not Himmler, but in Hitler's presence.

Q It ought to be in Hitler's presence?

A Yes.

Q Now, the next sentence, "All German Air Force camps came directly under the German Air Force itself, but the inspector of Prisoner of war camps was in charge of all camps for inspection purposes." We have had all that explained. I do not think that there is any dispute about the organization. I will not tr trouble you about that. We have gone into that in this Court in some detail. Unless the Tribunal wants it, I did not intend to trouble this witness again. You say, "I was not Inspector yet. General von Graevenitz was Inspector, and all camps came under him in matters concerning inspections and administ ration,"

Then you say, "Goering blamed Keitel for having let those men escape. These constant escapes were bad show. Then Himmler interfered. 'I can only say what the Field Marshal told us, and he complaind that he would have to provide another 60,000 to 70,000 men as Landwache'", etc. Is that right? Did the Field Marshal say that?

A Yes.

Q Now, the second paragraph: "Field Marshal Keitel said to us, 'Gentlemen, these escapes must stop. We must set an example. We shall take very severe measures. I can only tell you that the men who have escaped will be shot. Probably the majority of them are dead already'. Keitel said that to us at the conference" Is that correct?

A Yes.

Q Then you say"we were amazed, as that was a conception we had never come across before. The affair must have happened in March. We were sent to the Field Marshal in Berlin a few days after the escape, not on that account but for some

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other business. We knew that they had escaped, and we were taken by surprise by that declaration of the conference." Then you go on again with your account of the conference.

"General von Graevenitz intervened at once and said, But, Sir, that is out of the question. Escape is not a dishonorable offense. That is specially laid down in the Convention," Is that correct--that General von Graevenitz said these words?

A General von Graevenitz made objections, basing them on the Geneva Convention, but there is missing in this report the fact that the Field Marshal said to Graevenitz that this was a matter of a Fuehrer decree. That is not stated in this report.

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Q Well, if you look at the next sentence that I was going to read to you, you say:

"He", that is, General von Graevenitz, "raised these objections, whereupon Keitel said, 'I don't care a damn; we discussed it in the Fuehrer's presence and it cannot be altered.'"

Is that correct?

A No. The Field Marshal said, "that is a matter of indifference to me."

Q I think it would be easier, General, if you told the Tribunal now, to the best of your recollection, what the Field Marshal did say after General von Graevenitz had made his objections.

A I have already deposed a sworn statement on that subject, which I might perhaps read, regarding the presence of von Graevenitz and myself at the headquarters in March of 1940.

Q General Westhoff, the Tribunal may want that later. It would be easier if you would try to stick to this statement for the moment, whether it is right or wrong, and then we will deal with any other one later on. It is just this point, if you could direct your mind to it.

After General von Graevenitz had made his objection, as you have told us, on the ground of the Convention, what did the Field Marshal say? What did he say at that point?

If you would just try and do that, it would be a great help to us all.

A The Field Marshal then said, "It is now a matter of indifference; we must set an example."

Q I thought you said that he mentioned that there was a Fuehrer decree to that effect, or a Fuehrer order, or something of that sort. Did he mention that?

A That he had already said at the very beginning, that this was a Fuehrer decree.

Q In the next paragraph you point out, in this statement--and I think it is only fair to yourself to read it; it is the second sentence: "But in this case none of our men--that is, the men of the Wehrmacht--had shot any of

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the prisoners of war. I made inquiries at once."

Then you say: "None of them had been shot by a soldier, but by Gestapo men only, or else police sentries. That proves that probably Himmler---of course, I don't know whether he made the suggestion to the Fuehrer or how they arranged it; it should be possible to find that out from Goering, who was present at the conference. Naturally, I don't know."

Do you remember making these answers?

A Yes.

Q Then, you say again: "At any rate, it is a clear fact that our men did not shoot any of them, they must all have been shot by policemen."

You then point out, in the last sentence: "But in this particular case only those caught by our people were brought back to the camp--that is, those caught by soldiers."

Now, in the next paragraph you say that you had no authority to give the police orders, and you repeat that the military did not shoot any of them. And then in the third sentence you say: "I had a report sent to me at once, and told General von Graevenitz, 'Sir, the only thing we can do is to see that no dirty business is carried out where we are in charge.'"

Is that right? Does that correctly describe what you did, General?

A Yes.

Q You go on to say, a sentence or two later, that you were faced with a fait accompli, and then you say, after repeating General von Graevenitz' protests to Field Marshal Keitel, when he had said, "That is quite impossible, we can't shoot any people": "How the shooting was carried out I heard from the representative of the Protecting Power, Herr Naville, of Switzerland."

Is that right?

A No.

Q How did you hear of the shooting?

A I turned to the Gestapo and one of them had the documentation of it for the Foreign Office. I did not receive this. The representative of Switzerland to whom I had sent the report, on his return visit, visited me, and it was from him that I heard all that I ever heard about this

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matter, that apparently a prisoner of war who had returned to the camp had seen that the escaped officers had been driven out to a certain prison camp under heavy guard. That is the only thing I knew about this affair, and I never found out in what way these officers were killed. The Gestapo refused to inform me of this.

Q But it is correct that generally what information you did receive you received from the representative of the Protecting Power. I don't know if you remember whether his name was Naville or not.

A I am sorry, but I didn't understand the question.

Q What information you did receive--and you tell us that it was very little--you received from the representative of Switzerland, of the Protecting Power. Is that right?

A Yes.

Q Well now, I want to deal with the next bit in the statement where you tried to get in touch with the foreign office, and if you will look down the paragraph you will see that you say:

"At any rate, we did not get any news, and so it was pointed out to the Field Marshal that such a state of affairs was impossible, that we had to get in communication with the Foreign Office. Then he emphatically stated that it was forbidden to get in touch with the Foreign Office." Is that correct?

A Yes.

Q I will read on, two sentences further:

"The affair was raised in the House of Commons in England, and then a note was sent by our side. Then I was quite suddenly called up by Admiral Buerkner, of the Foreign Department, Amtsgruppe Ausland, in the OKW, which keeps contact with the Foreign Office. He called me up by telephone at night and said: 'The Field Marshal has given me orders to prepare an answer for England immediately. What is it all about? I don't know anything about the case.' I said: 'Herr Admiral, I am sorry, but General von Graevenitz received strict orders not to talk to anyone about it.' Nothing was allowed to be put down in writing either. Apart from that, we ourselves were faced with an accomplished fact. This order was

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apparently issued by Himmler and the position was such that we could do nothing more at all about it."

Is that a correct account?

A Here again the word "Himmler" stands where the word "Hitler" should stand.

Q Yes, I see. Apart from that, that is correct? I mean, in substance, is that a correct account of the conversation between Admiral Buerkner and yourself?

A Yes.

Q You then go on to say that Admiral Buerkner wanted you to tell him about the affair, and you only knew what the gentleman from Switzerland had told you, and that you had made various attempts to approach the Gestapo.

And then, if you will look at just before the end of that paragraph, it states: "Then the Foreign Office itself got into touch and took charge of this affair. Then another of my men, Oberstleutnant Kraft, went to Berchtesgaden while I was on a journey. At that time a note to England was to be prepared. Then when we read this note to England in the newspaper we were all absolutely taken aback. We all clutched our heads; - mad! We could do nothing about the affair."

Is that correct? Did you say that, and is that correct?

A The matter was then turned over to the Foreign Office, and the Foreign Office was charged with drawing up a note to England. At this discussion Colonel Kraft was there as a specialist, he had been called in on this matter. However, that is not to say that Colonel Kraft was in any way concerned in the drawing up of the note; that was purely a matter taken care of by the Foreign Office. He was there simply in order to clarify any errors in fact that might creep into it.

Q Now, General, the next part of the statement I did not intend to read unless the Tribunal wanted it, because you are making quite clear that in your opinion the General Inspektor, General Roettich, had nothing to do with the affair at all. And if you accept it from me that that is the substance of the next two paragraphs, I won't trouble you with it

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in detail. You are making clear that General Roettich had nothing to do with it. Is that right?

A No.

Q Well, I am sorry. If you will look at the first sentence--I thought it represented it fairly. Look at the first sentence. "General Inspektor Roettich had nothing to do with it, nothing at all. He did not have any hand in the affair. He was completely excluded from it by the fact that these matters were taken out of his hands, apparently at that conference with the Fuehrer in the morning--that is to say, the conference between Himmler, Field Marshal Keitel and Goering, which took place in the Fuehrer's presence."

Is that right? I only wanted to put it shortly, that you were trying to, and quite rightly, if it is true, give your view that General Roettich had nothing to do with it. Is that right; that is, that sentence I read t you?

Did you say "yes"?

A The General Inspektor was responsible for treatment regarding efforts to escape, but he had nothing to do with this matter.

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Q There is no difference between us. That is what I was suggesting. Now, I'd like you to look at the next paragraph. It also deals with General Roettig. Then after that you explain the position of the officers. You say this

"I only know an order existed that only officers and I believe only those who were caught by the Gestapo should be handed over to them."

Then you say, talking about intelligence -- I don't want to trouble you about that. Then, if you would look at the next paragraph:

"I received a report from the camp saying so and so many men had been shot while attempting to escape. I didn't hear from the Gestapo at all. It's like this: The reports are sent to the camp. Then the camp informed us that a certai number of men had been recaptured and a certain number shot. Things are reported in that way. The Gestapo sent me no information whatsoever; they merely told us casually whenever we made inquiries that they had recaptured a certain number."

Now the next sentence I want you to look at carefully: "The fieldmarshal gave us detailed instructions to publish a list at the camp, giving the names of those shot, as a warning. That was done. That was a direct order that we couldn't desobey." Is that correct?

A We were ordered to make an example of all those who were shot in order to frighten off the rest of those who were still in the camp.

And then, the next sentence says:

"Apparently the bodies were burned and the ashes put into urns and sent to the camp."

And then there is arrangement about the burial.

Then you say that that raised great difficulties. A sentence or two later you say that matters of that sort were always passed to higher authority. They went to the Party Chancellory and then there wass hell to pay. The cremation of prisoners of war is forbidden.

And then later on, when you say that you raised the question of it being contrary to the conversation, you say:

"Whenever I addressed the officers' corps and said, 'Gentlemen, we only act according to the conversation,' someone from higher authority from the Part Chancellory arrived the following day and said, 'Gentlemen, the conversation is a [illegible] as!"

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a scrap of paper which doesn't interest us.'"

Is that correct as to the general procedure?

A That is not entirely correct. The OKW took the point of view that the conversation should be observed. The treatment of prisoners of war in general in Germany was only exteriorly in the charge of the OKW. The people who really formed the decisions regarding prisoners of war were the Party offices and the economic offices. For example, my office had to submit every order that was issued to the Party Chancellory and the Party Chancellory interpreted how this order was to be carried out, and not the OKW.

Q I don't want to go into it in detail. You had an interview with Bormann's deputy, Friedrich, at the Party Chancellory. And then, the next long paragraph beginning "The Air Force prisoner of war camps were under German Air Force Administration."

We have gone into that, if Your Lordship agrees, in detail -- the Air Force side of it -- and I didn't intend to put that.

Then I want you to come to where it says, in the paragraph after you talke about the question of handing over prisoner of war camps to Himmler's organization, "We were told all men who get away are to be shot." It may be the beginning of another paragraph. It is the beginning of the next paragraph in my English version. Do you see it? After a long paragraph about Air Force camps.

A What page please?

Q The trouble is the pages are different, but it begins "We were told all men who get away are to be shot." It is the third from the last paragraph of the document. If you start from the end of the document you will see a paragraph "I can't remember"; and the one before it, "We arranged with the Fieldmarshal." It is the one before that. "We were told all men who get away are to be shot." Have you got it?

"The Fieldmarshal prohibited anything concerning this to be put into writing. Nothing at all. Only the camp was to be informed in order to put them in the picture. I discussed the matter with Graevenitz once more. I can't tell you the exact detail anymore. We contacted the Gestapo regarding the return of the bodies. We had to have them back. Then von Graevenitz left for the front."

It is the next bit I want you to look at carefully.

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"I then said to Oberstleutnant Kraft, 'I won't do it like that; I am going to cover myself at all costs so that we are not involved in it afterwards. It's true the Fieldmarshal has forbidden it to be put in writting, but I want to have it in writing. It must be signed by the Fuehrer.'"

Now that is what you said to Kraft; comparatively unimportant.

A That is not entirely correct.

Q Tell us what you like altered in it.

A I wanted it in writing that was signed by the Fieldmarshal, and for this reason I drew up a memorandum describing this discussion, In this way I wanted to get the Fieldmarshal's signature to it so that I would have something in writing to prove that it actually was the way things were.

Q Now, just look at the next sentence. I think that entirely agrees with what you have said:

"Contrary to Fieldmarshal Keitel's orders, I pretended that I hadn't understood properly. I worked the thing out on paper. I said to Oberstleutnant Kraft 'I want to have the word "shoot" included so that Keitel can see it in writing. He may adopt a different attitude then.' When I got the thing back he had written the following in the margin: 'I didn't definitely say "shoot"; I said, 'Hand over to the police or hand over to the Gestapo.'"

A That is also not entirely correct.

Q What change would you like to make in that, General?

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A I stated very clearly in my sworn statement that the Fieldmarshal had written on the margin "I didn't say shoot, but turn over to the Gestapo."

Q Is that the same as is in this statement? It says, "He wrote in the margin 'I didn't definitely say shoot. I said hand over to the police or hand over to the Gestapo.'"

A That is so, yes.

Q I wanted this to be quite clear, General. The draft order or note of information that you had put up to the Fieldmarshal contained the word "shoot?"

A Yes.

Q Now there is only one other bit. You go on to say, "We arranged with the Fieldmarshal to have the matter submitted to the Fuehrer. We had the feeling that there was something not quite in order."

And then you say that you had to approach the police authorities on a slightly lower level, and about ten lines down you say this:

"In the end I couldn't get where I wanted with this affair, so I went to Berlin myself. It was the only time I ever saw Kaltenbrunner, and said to Kaltenbrunner: 'This matter is still outstanding. It should be submitted to the Fuehrer. It can't carry on like this. A decision must be made sometime. But apart from that I am of the opinion that the whole affair should be dropped. The whole thing is madness. It has already let us into so much unpleasantness and is so monstrous that I am still of the opinion that this affair should either be stopped in some way or the Fuehrer be dissuaded from continuing it any further.'"

Is that generally, again in substance, a correct version of what you said to the Defendant Kaltenbrunner?

A This is not directly a question of this matter but rather of an order that was to be issued by Wagner and that could be submitted to the Fuehrer in two ways: (1) via the chief of the OKW, and (2) via Himmler. This order had been submitted to Keitel and then to the Gestapo. The Gestapo read this outline of the order and then the matter was carried no further. I could not find out why this was so and spoke about this matter to Kaltenbrunner.

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Q Was this the order in its final form that escaped prisoners of war should be handed over to the Gestapo or the police?

A Yes.

Q I see. So this, if I may have your attention, was really dealing with the future, was it? This was dealing with what was to be done in the future?

A Yes.

Q My Lord, I don't think one need go into it in details again, unless the Tribunal wants. My Lord, the rest of the statement is only a general account of the attitude of the British prisoners of war, and I have no complaint about it at all.

My Lord, there is one problem that has arisen which perhaps the Tribunal would consider now. My friend Colonel Pokrovsky has certain quite different matters with regard to the treatment of Soviet prisoners of war which he wanted to raise with this witness, and perhaps the Tribunal would consider it a convenient time to do it.

THE PRESIDENT: It probably would be more convenient if Dr. Nelte put his questions to this witness, if he has any, first, before Colonel Pokrovsky.

SIR DAVID MAXWELL FYFE: I should respectfully agree to clear up this topic first.

THE PRESIDENT: Unless Colonel Pokrovsky's questions might relate to the Defendant Keitel?

SIR DAVID MAXWELL FYFE: They do relate, of course, to the position of the OKW with these prisoners of war, but they have nothing to do with Sagan.

THE PRESIDENT: Dr. Nelte, have you any questions you want to put to this witness?

BY DR. NELTE:

Q Witness, what was just read to you is called a statement. Was this statement in the form in which it was here read submitted to you orally or in writing?

A I was interrogated, and these are notes which are a summation of my testimony. Of course, I found errors here and there because this is a

summary and does not contain the individual questions and answers.

Q In other words, this is a summation of the answers you gave to questions at various interrogations?

A Yes.

Q Was this summation ever submitted to you?

A No.

Q I had the impression that the passages read to you here were on occasion very long and that you sometimes gave an answer to what was really only the latter part of these passages. I should like now to ask you whether after this interrogation in London you were again interrogated?

A I was interrogated here in Nurnberg.

Q By Colonel Williams?

A Yes.

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Q What did Colonel Williams say to you at the conclusion of this interrogation?

A At the conclusion of the interrogation, Colonel Williams asked me to describe briefly the basic central point of my testimony and to sign this sworn statement.

Q Did you swear to this statement before Colonel Williams?

A Yes.

Q Now, I should like to go through the interrogation with you, that you had with Colonel Williams and which is to be found in document 1450.

THE PRESIDENT: What do you mean by document 1450?

DR NELTE: RF1450 is contained in my document book as document 5, in my document book.

THE PRESIDENT: But you mean RF 1450, do you?

DR. NELTE: Yes, RF.

BY DR. NELTE:

Q This document is entitled "Brief of Interrogation of General Adolf Westhoff by Colonel Curtis L Williams, on 2 November, 1945."

THE PRESIDENT. Just one minute. Dr. Nelte, the Tribunal thinks that you can put to this witness "Did you or did you not make a different statement in an interrogation at some other time?" But the document that you are referring to now is a document which the Tribunal refused to admit on your own objection. When the French presented that document, you objected to it and it was therefore not allowed to be put in, so that the proper way in which to put the question now is "Did you say to Colonel Williams so and so?"

DR NELTE: Very well.

BY DR. NELTE:

Q I have here a summation of those points that are contained in the document regarding Colonel Williams' interrogation, those points which do not correspond to your other interrogations. What did you say to Colonel Williams' question--

THE PRESIDENT: You are saying that he has made statements which are different from what he has said in evidence now. You must ask him about it

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and not make statements which are different from what he has said in evidence now. You must ask him about it, and not make statements yourself.

BY DR. NELTE:

Q What did you say to Colonel Williams, to his question, whether the prisoner of war camps in their entirety were subordinate to Keitel and the OKW?

A The prisoner of war camps are subordinate to the OKW only to this extent, that the OKW had the control of them and that the OKW have gotten in touch with the protecting powers; namely, the OKW did not have punitive powers in the prisoner of war camps.

Q What did you answer to Colonel Williams' question regarding the right of the OKW regarding the inspection of the camps?

A The OKW had the right to inspect. That can be seen also in my official orders which state clearly that such inspection is permissible.

Q What did you anser to Colonel Williams' question, under whom the Stalag Luft 3 was subordinate.

A It was subordinate to the High Command of the Luftwaffe, because the High Command of the Luftwaffe on its own wished, from the beginning of the war, all prisoner of war camps containing airmen under its control.

Q Did you answer one of Colonel Williams' questions that Goering, Himmler, Keitel and Hitler had decided to shoot the officers who escaped from this camp?

A No, that is a mistake. Colonel Williams asked me what the Fuehrer had said to Keitel; thereupon, I ansered clearly that I know nothing about this, since I had not taken part in that conference. I could only make statements about the conference that Keitel had with General von Graevenitz.

Q Did you answer Colonel Williams that Fieldmarshal Keitel, during this conference, had said "This is my order?"

A No. The Fieldmarshal could not issue an order regardin the shooting, since this shooting was not in the competence of the Wehrmacht but in the competence of the Gestapo.

Q During your interrogation, particularly with Colonel Williams,

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did you state clearly that it had never been a question of an order issued by Keitel himself or of an order which Keitel transmitted to you on higher orders?

A This is a question of information given to Graevenitz, that is stated altogether clearly in my sworn statement.

Q If I understand you correctly, you say that Fieldmarshal Keitel never issued an order of his own nor ever expressed or transmitted to you any order regarding these officers that were to be shot?

A No, that he could not do.

Q During the interrogation by the prosecutor a moment ago, there was talk of a report which the camp commander G oerlitz made to you. This is also in the protocol. Did you ask for or receive a report from the camp commander?

A I had no personal connection with the camp commander Goerlitz but there must be a confusion with the statement of the Swiss representative Naville.

Q Is it correct that during the discussion between , on the one hand, Keitel, and on the other hadn, Graevenitz, two matters were brought up; First, the case of the escaped Royal Air Force officers; and secondly the question as to how the Fuehrer action should be taken in order to prevent such escapes?

A Yes, that is so.

Q I know of a question to ask you in which I should like to request you to anser, if possible, only with yes or no. Is it true that in case 1, namely, the affair of the escaped officers, the conversation consisted exclusively of a making known of these facts and of what had happened in the higher spheres of authority?

A Yes.

Q Did General Graevenitz, on the return from headquarters, did he not say to you "What can we do if the Gestapo once gets things into its hands?"

A Yes.

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Q In other words, it is clear, on the entirety of your conversation with Keitel, that it was a question here of an order directed to Himmler from Hitler?

A In regard to the shootings, yes.

Q After Professor Neville visited the camp, did he say to you that his impression was no doubt, that there were stronger forces against which the OKW was unavailing in its efforts?

A Yes.

Q Did the OKW in regard to the escaped prisoners and in regard to the treatment of them, have anything to do or was it perfectly clear that in this respect, this matter was settled so far as the OKW was concerned?

A The OKW could do nothing further because the matter had been taken entirely from its hands.

Q Accordingly, then, it is not correct to say that after this discussion between Keitel, Graevenitz and Westhoff, that a conference was called by the OKW?

A No, there was no further conference with the OKW.

Q A document has been submitted in which Colonel Walde--it is document D-731 in which Colonel Walde states, and to be sure, he says at the beginning that he had to reconstruct what had happened from memory and according to his recollection he believed that the OKW had called a conference that took place in the Prinz Albrecht Strasse. Do you know anything about this?

A Of this conference, I know that it could not have been called by the OKW, I only know about this conference from you and I also know that it could not have been called by the OKW; otherwise it would have been held at their headquarters and not at the Prinz Albrecht Strasse.

Q Is it correct that the recaptured officers, recaptured by the Wehrmacht, were returned to the camp and remained there?

A Yes.

Q Were recaptured prisoners of war who were turned over to the camp in any case, let out again for any reason?

A No.

Q Is it, on the other hand, true that you gave the camp commander strict orders on the part of the OKW, that recaptured prisoners should under no circumstances be let out of the camp again?

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A This order was not given to the camp commanders by me, but to the sectional commanders (Wehrkreise) in charge of Prisoner of war, and by them to the camp commanders.

Q An order was mentioned that the names of the escaped prisoners who had not returned, should be published. You stated before that this order came from above in order to serve as a deterrent and in order to clarify it and its purpose I should like to ask you whether Fieldmarshal Keitel did not say as justification for this order "I hope, however, that the prisoners will be so shocked by this that they in the future do not try to escape"?

A Yes, the Fieldmarshal said that.

Q You stated, or rather, it was read to you that Keitel to you and Graevenitz that nothing could be put down in writing about this whole matter nor could any other office be consulted on it?

A Yes.

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Q Now, is it correct to say that regarding this matter, namely the conference, that you drew up a memorandum on it and submitted it to Keitel?

A Yes.

Q Is it correct that Field Marshal Keitel did not take offense at this fact as one might have expected but wrote his initial "K" on this memorandum that you submitted to him?

A Yes.

Q Is it also true that you, because you had to report, got in touch with the R.S.H.A. in order to find out something about the fate of these officers?

A Not only I tried to get in touch with the R.S.H.A. I myself did not succeed in this effort. It was turned over to the Allgemeine Wehrmachts Amt but it too did not succeed in these efforts.

Q Is it further true that you asked the representative of the Red Cross, Dr. Naville, to visit you in connection with this affair?

A I did request such a visit.

Q Is it further true that Field Marshal Keitel called you up and told you that the Foreign Minister had to have precise knowledge of the whole occurrence, needed this information in order to draw up a note to England and that you consequently were to tell the Foreign Office about the occurrence in all its details?

A Yes.

Q Did Keitel say on this occasion that you were to conceal anything or to put anything in a false light?

A No.

Q Was the O.K.W. involved in the dictating of this note?

A No.

Q Is it correct that your representative, Colonel Kraft, was called to a meeting in Berchtesgaden called by the Foreign Office for the purpose of answering questions of the representative of the Foreign Office and to answer them truthfully?

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A Yes.

Q Is it finally correct that Colonel Kraft reported to you that the Foreign Office had presented anote to Hitler and Hitler had drawn it up and dictated the text himself?

A So far as I recall, yes.

Q The second part of the conference between Keitel, Graevenitz and Westhoff concerned itself with the question of what action should be taken in the future. You stated in this connection that an order was to be drawn up and that it was a question of various spheres of competence that would have to be discussed with the R.S.H.A. Tell me in this connection, what did the R.S.H.A. or Himmler have to do with the administration of prisoners of war camps?

A Himmler was responsible for the security of the Reich and to this extent had to concern himself with the treatment of all escaped prisoners.

Q Did he, in this way, come into conflict with you in the O.K.W. in your department K.G.W.?

A Whenever prisoners of war escaped we occasionally asked the R.S.H.A. what had been done about them and received no information.

Q Does that mean that it is possible that Himmler or his office gave you no information when he caught prisoners of war?

A That is certainly possible and it was assumed to be so by us.

Q Did you on one occasion, while drawing up orders and regulations which were concerned with the treatment of escaped prisoners of war, use the words "Stufe III"?

A N o.

Q Do you know whether the meaning of these words which were equivalent to a sentence of death were known at all in the O.K.W.?

A I did not know their meaning. I was asked about them in London for the first time and had to state then that I could not

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say anything about them, that I did not know anything about them.

Q When you say personally, then you probably believe that the organization as a whole shared the same ignorance?

A Yes.

Q I have a document here, number 1514-PS. It is a collective order of the Commander of Wehrkreis 6 regarding the treatment of escaped prisoners of war. You will see in this order a number of references to previous years as far back as 1942.

I ask you now so far as you know from experience did an order issued on the 4th of March, 1944, or if it

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is asserted to have been issued, would it not have to be a part of this document if its contents were very important?

A If it was a question of a secret order, then yes.

THE PRESIDENT: Dr. Nelte, aren't you getting very far away from the subject upon which this witness was being examined? I mean he was being examined about an interview which he had with the Field Marshal Keitel and here you are asking him about something which has nothing to do with that at all as far as I am able to see.

DR. NELTE: I believe that I can make clear that this does have something to do with the second part of that conference, namely regarding the treatment of captured escaped prisoners of war. These are preparatory questions that I must ask to make clear in my opinion --

THE PRESIDENT: It is a very long cross-examination of a witness whom you did not wish to call. The Tribunal wishes you to make your cross-examination as brief as possible.

DR. NELTE: I shall make it as brief as the interests of the defendant permit.

BY DR. NELTE:

Q Is it not customary in German legislation that in referring to an order issued by higher authorities, that the date and archive number is given?

A Yes.

Q Did you ever turn to the representatives of the guarantor powers or the Red Cross and communicate to them that prisoners of war of whom you knew about, that is that you knew they were recaptured but you had not been informed of their recapture?

A No, I never did.

Q Do you know and here I show you my last document, 1650-PS --

(Witness handed document)

THE PRESIDENT: What was the point of showing 1514-PS to him? He has not been asked any relevant questions about it at all.

DR. NELTE: From this document I found corroboration that if an order had been issued on the 4th of March, 1944, it would have been contained

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in this document.

THE PRESIDENT: The Tribunal all think it is a waste of time, Dr. Nelte.

DR. NELTE: I shall be through in a few minutes, Mr. President.

BY DR. NELTE:

Q Witness, would you please turn to page 3 of this document, under number two. It reads:

"The OKW is requested to inform the prisoner of w r camps that in the interest of camouflaging the recaptured officers are not to be turned over directly to Mauthausen but to the local police authority."

Did you ever in your activity in the OKW know of such a request or order?

A That is not familiar to me. This also took place at a time when I was not chief.

Q But on taking over on the first of April, 1944, you would have been informed of all important events?

A Yes.

Q Did you ever find out that such a document existed?

A No.

Q And now the last question. Look at the first page of this document. It is a telegram from the Chief of the SIPO and SD, Mueller, and it reads in the first paragraph as follows:

"The OKW has ordered the following: Every recaptured escaped prisoner of war is after he is crecaptured to be turned over to the SIPO or SD with the code word 'Stufe III'."

The defendant Keitel has stated that he does not know of such an order on the part of the OKW.

I ask you now, did you when you took over office on the 1st of April and were shown the previous orders of importance, ever find out about such an order as this?

A I never found out about it there but it certainly existed.

Q In what way?

A So far as I recall General Graevenitz brought this either from the Field Headquarters or from the General Wehrmacht office.

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Q How is it possible that you never found out about thisorder wnen you took over office?

A Because this order was to exist only orally.

Q Then please tell me how were these things to be dealt with if this was to be only an oral order?

A It would be transmitted orally. It could be transmitted as far as the KGW.

Q And you know this order was transmitted?

A Graevenitz brought this order with him and as far as I know it was also transmitted further.

Q Then you must have know what "Stufe III" meant.

A No, that I did not know. I have said that I knew only that there was an order to turn over these recaptured prisoners to the Gestapo but I could not remember details because I never saw the written order.

Q Can you then state that this order as you see it there before you was issued by the OKW?

A No, that I cannot say.

Q Thank you.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken).

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DR, KAUFFMANN (Counsel for defendant Kaltenbrunner): Mr President, permit me to put a few questions which refer to the person of the defendant Kaltenbrunner.

THE PRESIDENT: Dr. Kauffmann, we are going to call the witness Wielon afterwards. You realize that?

DR . KAUFFMANN: Yes.

THE PRESIDENT: But you want to ask this witness questions, don't you?

DR. KAUFFMANN: Yes. The name Kaltenbrunner has been mentioned and I have a few questions on that subject.

BY DR. KAUFFMANN:

Q Witness, you mentioned a little earlier that you had communicated with the Gestapo and that they hadn't given you any information. Can you remember who you contacted?

A No. The conferences with the Gestapo took place currently; whenever prisoners of war had escaped, and we didn't know therethey were, we made frequent inquiries at the Gestapo. But on one occasion I visited Kaltenbrunner, which was on the occasion of some other matter which had nothing to do with allied prisoners of war, and since that gave me an opportunity to talk to him personally, I immediately brought the matter up for discussion and tried to have that order rescinded. Kaltenbrunner and Mueller were present at the time.

Q Later on in Berlin and after the case of Sagan you have talked to Kaltenbrunner personally?

A Yes.

Q Was the case of Sagan discussed?

A Yes, I talked about the matter Sagan with Kaltenbrunner and I pointed out that this was an untenable situation.

Q How long after the case of Sagan did this conversation take place?

A I'm afraid I can't tell you that now; it may have been four weeks afterwards.

Q What was Kaltenbrunner's view about that problem? What did he tell you?

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10 A

A He himself said next to nothing. Mueller was talking most of the time. I left without having been given either yes or no.

Q Was Mueller present during the second discussion in Berlin, too?

A I have only been to Berlin once.

Q Wasn't the subject of that conversation the general question as to how one could reform the prisoner of war system in the future?

A No.

Q You mean that only the case Sagan was discussed?

A Not exclusively the case Sagan. I was ordered to see Kaltenbrunner for another reason, referring to German prisoners of war, and I used the opportunity to discuss that other case with him at once. It was the only time that I have met Kaltenbrunner at all.

Q And during that conference you neither had a positive nor negative answer?

A That's correct.

Q What was the impression with which you left that conference?

A Impression? The impression was that nothing much could be done.

Q Did you report to your superiors about that conference?

A Yes, I informed the General Armed Forces Department at the time.

Q What was the content of that message you sent?

A That I had had a discussion with Kaltenbrunner about the case.

Q Well, that alone, witness would be enough. In such an important matter you must have mentioned the contents of that conference, not just the fact---

A Of course I reported the contents; that I had brought the matter up again, and that the Gestapo was taking the attitude that they wanted to wait.

DR. KAUFFMANN: I have no further questions, Mr. President.

BY DR. STAHMER (Counsel for defendant Goering)

Q Witness, during that conference you have mentioned, between Hitler and Keitel, regarding the escape of these allied flyers, did you mention the fact that it is supposed to have happened in the presence of Goering; did you state the fact that he was present personally/ Did you state it personally or did you gather that through Keitel?

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A I have heard it through Fieldmarshal Keitel.

DR. STAHMER: I have no further questions.

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(Dr. Laternser, Counsel for the OKW and General Staff, approached the lectern.)

THE PRESIDENT: Dr. Laternser, if you are going to ask questions on behalf of the High Command -- that is what you wanted to do?

DR. LATERNSER: I was going to ask a few questions on behalf of the OKW and the General Staff.

THE PRESIDENT: Well, the witness has given his evidence about the fact that the OKW had nothing to do with these matters in connection with prisoner-of-war camps and he hasn't been cross-examined with reference to that by the Prosecution; so that the matter is not in dispute. And therefore it appears to the Tribunal that there is no question that need be put by you.

(A short pause.)

You had better specify your question.

DR. LATERNSER: Yes, Mr. President, up to now, the procedure was that every witness who appeared before the Tribunal could be examined by every Defense Counsel and asked questions whichhe considered necessary. Are you going to depart from that --

THE PRESIDENT: I didn't ask you to argue the matter; I asked you to specify your questions.

DR. LATERNSER: Very well.

BY DR. LATERNSER:

Q Witness, you were active in the Eastern Campaign?

A Yes.

Q In what capacity?

A First of all in command of a battalion and then a regiment.

Q In what sector was your unit?

A To begin with, in the Ukraine; later, before Leningrad, and then at Starja Russa.

Q Before the beginning of the Eastern Campaign did you give special instructions to your company commanders?

A In what respect?

Q After you had had the order to attack. I assume you must have had an order group of your company commanders and you as battalion commander must have been discussing orders with them.

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A I told them how the had to attack during the fight and told them how to behave toward the Russian population and to Russian prisoners.

Q What were the instructions you gave your company commanders?

A I briefly gave them instructions that every prisoner of war was to be treated in the same way he wanted to be treated himself if he became prisoner.

Q You said that specifically?

A Yes, that was ordered.

Q How did the troops behave when they marched in?

A We fought practically all the way to Kiev, and were marching, and had very little contact with the civilian population

Q During the advance in Russia did you note considerable destruction?

A Partly, yes; in part, villages had been destroyed, and small towns had been destroyed.

Q What about railways?

A Railways, yes.

Q Industrial works?

A Yes, I saw some of that outside of Leningrad.

Q Was the order employed in your sector according to whichSoviet Russian Commissars were to be shot?

A We had nothing to do with that. Prisoners of war that we took were sent back to the Division right away. We, the commanders -- regimental and battalion commanders -- had nothing to do with it; nor had we any time to answer it.

Q I have asked you whether the order was used in your sector.

A I don't know anything about it.

Q Have you ever received the order to attack Jewish people in Russia?

A No.

Q Did your troops ill-treat civilian persons or troops, or shoot them?

A No, there was a special order for the maintenance of discipline stating that this was not permissible.

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Q Was there any plundering?

A No, this was specifically forbidden.

Q Did any plundering happen?

A Not with my troops.

Q Did members of your unit commit rape?

A No; in no case known to me.

Q Was the civilian population compelled to clear the houses occupied by troops?

A No, there was merely an order saying those houses had to be cleared which contained officers. Other houses did not have to be evacuated, and as a rule the system was that whenever I was billeted on someone I would sleep in the same room with the people who lived there.

Q Have you experienced destruction whichwasn't due to military necessity?

A No.

Q Have you frequently on any occasion seen the civilian population fed on army rations?

A There was an order saying that all food that was surplus in the regiment should be given to the population at mid-day or in the evening, whenever we did have contact with them.

Q And then one last question: Would you consider it possible that German soliders could invite Russian children to a coffee party and give them poisoned cake, to poison and kill them?

A No.

DR. LATERNSER: I have no further questions.

THE PRESIDENT: You aren't suggesting, are you, that this witness is one of the High Command?

DR. LATERNSER: No, no.

THE PRESIDENT: Are you suggesting that you are to be entitled to examine every witness who has any military rank, on behalf of the High Command.

DR. LATERNSER: Mr. President, as far as I understood it, it has been the rule that any evidence, including witnesses, which is brought in here could be examined by everyone of Defense Counsel, and I have adhered to that

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rule up to now, and I felt that it must apply to any future questions put to the witness.

THE PRESIDENT: I asked you simply, are you suggesting that you are entitled to ask questions on behalf of the High Command of every person called here who has any military rank?

DR. LATERNSER: Yes, Mr. President.

THE PRESIDENT: Well, it seems to me that would be highly cumulative. We shall have evidence on behalf of the High Command from possibly thirty or forty witnesses. And when you say that it has been allowed in the past, every other member of the Defense has been confined to evidence so far as possible which is not cumulative. That was the reason I interrupted you, because it seemed to me if you are going to do that, claim the right to ask questions of everybody who has military rank -- and you have done it up to now -- the evidence is going to be extremely cumulative on your part.

(A brief pause.)

You see, Dr. Laternser, the questions you have been putting to this witness are questions directed to show that the regimental officers and soldiers in the German Army behaved properly and could not be expected to behave improperly. That doesn't seem to be really relevant to the questions of whether the High Command is or is not a criminal organization. And in any event -- in my opinion, at any rate -- it is cumulative if you do that.

DR. LATERNSER: Mr. President, the Russian Prosecution particularly have produced so much material seeking to implicate the Armed Forces that the Russian Prosecution themselves have decided that corresponding orders came from above; in other words, whether any came from persons in the OKW. And I was going to ask the witness to ascertain whether any effects on a lower level had occurred. The statement that he made proved that it wasn't the case.

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THE PRESIDENT: Anyhow, Dr. Laternser, we have your position now, and the Tribunal will consider how far you may be allowed to do it in the future.

DR. LATERNSER: Very well, Mr. President.

THE PRESIDENT: Now, Colonel Pokrovsky.

DR. COLONEL POKROVSKY:

Q It seems to me, witness, that on 28 December 1945 you were interrogated by a representative of the Soviet Prosecution; is that not so?

A Yes, sir.

Q You gave correct and accurate testimony, did you not?

A Yes.

Q Would you please confirm some of your answers to the questions that were asked you then? I will help you to recollect the questions that were asked you.

A Yes.

Q In your section there were, as you stated, six different sub-divisions or departments?

A Yes.

Q You said that the first subdivision of the section--I mean your section dealing with prisoners of war which you headed from 1 March 1943 up to 31 March 1944. You headed the Prisoner of War Department, did you not?

A Yes.

Q Now, the first subdivision of the Prisoner of War Department was concerned with the treatment of prisoners of war, specifically, the questions of punishments, legal supervision, and so on. It was this subdivision that was in constant touch with Counter-Intelligence Corps on the subject of the prisoners of war, is that correct?

A With Counter-Intelligence, yes.

Q In connection with the reply which you gave to that question, I would like you to state to the Tribunal right now just how much or what did you know about the way the Soviet prisoners of war were treated, both in the camps themselves and when the prisoners of war were being transferred from one camp to another. What happened to them, both in the camps and en route?

A Regarding the treatment, I can say that as far as I know and until 1942, Russian prisoners of war were treated on the basis of political considerations. After 1942, that was changed, and beginning in 1943, as long as I was in the OKW,

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prisoners of war were treated in accordance with the Geneva Convention. That is to say, in all points their treatment was coordinated with that of other prisoners of war; their rations were the same as those of the others, and their employment and so on and so forth, and their treatment was in every detail in accordance with that treatment given to other prisoners of war, with certain exceptions.

Q If I am not mistaken, the fourth subdivision of the department was especially concerned with the questions of feeding and clothing the prisoners of war. Is that correct?

A The task of Group IV was matters of administration. It had to deal with instructions and directives regarding rations, in contact with the Minister for Food. It also had to deal with clothing.

Q If I understand you correctly, you have stated that until you took charge of the Prisoner of War Department, the knowledge that you received about the Soviet prisoners of war was to the effect that the Soviet prisoners of war were not treated according to international law. Is that correct?

A No, I said that prisoners of war during the first year were treated on the basis of political considerations, which originated not from the OKW but from Hitler personally.

Q In other words, just what do you want to say about that?

A I want to say that they were not treated in accordance with the Geneva Convention until 1942.

Q In other words, not according to international law, right?

A I can not give you any detailed information on that, since at that time I was still serving at the front and did not know details regarding the instructions.

Q Very wel. Tell me, was there in the OKW a special group or section which dealt exclusively with transportation matters concerning the prisoners of war?

A The OKW had a department which was ordering transports of prisoners. The transports themselves were not a matter for OKW. They were a matter for the individual camp commanders.

Q Are you aware under what conditions the transference of the prisoners of war from one camp to another took place?

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A Transports of prisoners of war were ordered by the OKW. The execution of such transports of prisoners was a matter fir the camp commandants, who had their corresponding orders from the commanders of prisoners of war in army districts. The actual transport was not a matter for the OKW.

Q The question I asked is whether you are aware or were informed under what conditions the transfer from one point to another took place. Do you know that thousands of prisoners died en route from cold and hunger? Are you aware of that? Do you know anything about it at all?

A The transports during which prisoners of war died can only be traced back to the earlier years when I was not yet in the Supreme Command of the Armed Forces. As long as I was there, I had no reports on any scale saying that large numbers of them did lose their lives. The orders which the OKW gave regarding transports of prisoners of war were clear-cut, and the commanders of th camps were responsible for the orderly way in which these transports had to take place.

Q You have just confirmed that you were aware of the fact that en route many prisoners of war died. Now I would like you to look at a document, Number 10021 USSR. It consists of the minutes of the meeting of the Ministry of Economics of the Reich. It has not been submitted to the Tribunal so far. It is date 29 February 1942. The minutes were taken of the meeting which took place at ten o'clock in the morning. The report given by Dr. Mansfeld, General Plenipotentiary for the use of Manpower was heard. The three lines which particularly interest me are underlined with red pencil on the copy that is before you right now. It states there:

"The utilization of the Soviet prisoners of war is particularly important today. It is useless to transfer manpower in open or unheated boxcars, for in this case all we unload is corpses."

Have you found this place?

A Yes.

Q Have you heard anything about transports of this kind, when in place of a train of living persons, corpses were unloaded? Have you heard anything about that until you took charge of your particular job in the OKW? Has anyone reported to you about these things?

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A I have heard nothing about these transports, since they did not come into the juridiction of the OKW, as is clear from the document. This was a matter for the operational sectors. The juridiction of the OKW was in the main the German Reich and the original states. The OKW had the right to decide about the prisoners of war by the army and it was reported, "You are going to get that and that figure," and they came into our camps. What happened in the operational territory to those people, that we could not control in detail.

Apart from that, this story goes back to 1942, a time when I was still serving at the front.

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Q Look at the left side of the document at the top. There is a note there that this comes from the Ministry of Economics, does it not? Left, at the top, under the number. Do you see it?

A My department had no contact with the armament department.

Q Very well. Does it not seem to you that this document confirms the fact that OKW knew about it?

No more questions, Mr. President, to this witness.

THE PRESIDENT: Colonel Pokrovsky, as this document has not been put in before, should you not read the first paragraph of it? It seems to contain material evidence.

COLONEL POKROVSKY: The first paragraph of the document, the way it appears in the Russian translation at least, is like this:

"Minutes of the representative of the Ministerial Director, Dr. Mansfield, Deputy General for the mobilization of labor on general questions regarding the mobilization of manpower, dated 19 February 1942. 10:00 A.M."

The meeting took place in the Reich Chamber of Economy. Present were, from the Ministry of the Military Economy, and from the OKW, Dr. Grotius.

"The present difficulties in the question of the utilization of manpower would not have arisen if we had decided in time to utilize the Russian Prisoners-of-War on a larger scale."

This is the first paragraph, Mr. President. Further down there are three lines which interest me in this document.

"There are over 3,000,000 Russians in ourpower, at present there are only 1,000,000 and 1/10 of a million left. Only, in November 1941 and in January 1942, 1/2 million Russians died."

Have I read sufficiently, Mr. President, or do you want me to read further?

THE PRESIDENT: No, go on.

COLONEL POKROVSKY: "It will be hardly possible to increase the number of employed Russians today. There are 400,000 working today. However, the typhus cases are increasing. If they do decrease there may be a possibility to employ from 100,000 to 150,000 more. Compared to that, the employment of Russian civilians is gaining constantly greater importance.

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There are, all together today, between 600,000 and 650,000 Russian civilians among whom 300,000 are skilled industrial workers and 300,000 and somewhat over could be used for agriculture. The employment of these Russians is a question of transportation."

THE PRESIDENT: That's what you read before.

COLONEL POKROVSKY: That is right. I would like to direct your attention once more to the fact that there isstamped on the document, the Ministry of the Military Economics and the Ministry of Industrial ...

THE PRESIDENT: Colonel Pokrovsky, that doesnot appear in our translation, but I guess you are right. At least, I don't see it. Could you let us see your document?

COLONEL POKROVSKY: The original will be shown to you immediately. Left, at the top, in the left corner, where the abbreviations are stamped.

THE PRESIDENT: These letters and numbers? These letters and numbers indicate OKW although they don't say it?

COLONEL POKROVSKY: That's right.

THE PRESIDENT: Why do you say that? I mean, the actual letters which are there look to me like Ru III Z ST Az i k 32/310 Wi Ru Amt/Ru III Z St?

COLONEL POKROVSKY: In deciphering these abbreviations, which was done by our American colleague, the full significance of each word was given to me. The data which the American Prosecution has belongs to the OKW and these are the usual abbreviations for the Ministry of Military Economics.

THE PRESIDENT: The Tribunal would like to ask you to ask the witness whether he knows anything about the man mentioned at the right, further down at the right. Dr. Gotha. Never mind, I will ask him.

QUESTIONS BY THE PRESIDENT:

Q Do you know who Dr. Gotha was and whether he was employed in the OKW or in the Army?

A No, I have never heard the name Dr. Gotha. I never had any dealings or contacts with him.

Q Have you got the document in front of you?

A No, I haven't got it any longer.

Q Well, just look at the letters which are in the front of Dr. Gotha's name. Do they indicate that he was a member of the OKW?

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A I don't know about him. I don't know what that means and the OKW has nothing to do with this whole matter.

Q Do you know what the letters on the top left hand side of the document mean? The ones I just read out now?

A Ru III you mean?

Q Yes.

A That, I think, is the rearmament department No. 3. I assume that's what it probably means.

Q Well, that would be in connection with the OKW, would it not?

A I am afraid I am not informed since I have not had any contact with the armamant department. The OKW, at least my department in it, had dealings only with the General Plenipotentiaries for labor and the Ministry of Speer. Just how it was divided is unknown to me.

Q Did you know of or did you know Dr. Mansfeld?

A I didn't understand the question.

Q Did you know Dr. Mansfeld?

A No, I didn't know him and I have never heard his name.

COLONEL POKROVSKY: The question of Dr. Mansfeld, about Dr. Mansfeld, could be asked, probably, of Mr. Sauckel.

THE PRESIDENT: Very well. Technically speaking, the Tribunal cannot accept from you that these letters at the top mean the OKW. It may be perfectly true, but you cannot give evidence about it. So you can prove it some other way, possibly.

COLONEL POKROVSKY: It was reported to the Tribunal already--the scheme of the organization and the fact that the American Prosecution has deciphered these abbreviations. For that reason, it seems to me that the question might be put to the witness as to the fact that the document does concern the OKW. However, it would be quite easy to show or to submit here the organizational scheme of the OKW, or the Ministry.

THE PRESIDENT: Then the witness can retire.

The Tribunal will adjourn now, and they will want the other witness, Mr. Wichen, at 2.00 o'clock.

(The Tribunal adjourned until 1400 hours).

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File

Official transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Herman Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany on 10 April 1946, 1400-1700, Lord Justice Lawrence presiding.

SIR DAVID MAXWELL-FYFE: My Lord, I don't know if Your Lordship wanted the words for these short collections of letters. I have them if Your Lordship wants them; that is, on the last document, 1201-PS.

THE PRESIDENT: Thank you very much, yes.

SIR DAVID MAXWELL-FYFE: My Lord, I think what your Lordship looked at was where the name Dr. Grotius appears.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL-FYFE: The "WI RU Amt" is the Wirtschaft und Ruestungs Amt, the Economic and Armaments Office, whichis, your Lordship will remember, General Thomas' department of the OKW.

My Lord, the other letters, "KVH" are Kriegsverwaltungsrat, War Administration Counsellor.

I don't think there can be any dispute that the document comes from General Thomas' department of the OKW.

THE PRESIDENT: Yes.

DR. LATERNSER (Counsel for the General Staff and the OKW): Mr. Presiden let me say something in this regard. I should like to state certain scruples It must be ascertained from whence comes the heading of the first section. The heading of the second section, which Sir David just referred to, begins with the letters "AZ", which means "files". In other words, it is from the files of the Economic and Armaments Office. However, it does not explain the source of this document. We must find out how the heading of the first part is to be understood.

THE PRESIDENT: Well, do you understand it?

DR. LATERNSER: Yes, I understand it.

THE PRESIDENT: Very well.

DR. LATERNSER: The author of this writing can only be found if we find out what the first line means, because the second line is only the

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document archive number, which is to be seen from the first two letters, "AZ", which means the German Aktenzeichen. This seems to refer to something from the Economic and Armaments Office.

That is all I have to say.

SIR DAVID MAXWELL-FYFE: I don't know if Your Lordship wants any further information. It seems to me quite clear. That is, it is from the files of the department I mentioned, the Wirtschaft und Ruestungs Amt.

THE PRESIDENT: Yes. You mean, it goes back to the same letters.

SIR DAVID MAXWELL-FYFE: Yes.

THE PRESIDENT: It has just been explained to me that what Dr. Laternser was saying is that the letters "AZ I K 32/510" only mean that it is from the file of that department.

SIR DAVID MAXWELL-FYFE: Yes, My Lord. Then, to find the office whose file it is, you get "WI RU" again, which is the Wirtschaft und Ruestungs Amt, which is the Economy and Armaments Office, and it is the Armaments Department No. 3.

THE PRESIDENT: Yes.

Sir David, the Tribunal thought that the best way would be to put this witness in the box and then to leave him to counsel for the prosecution and the defense.

SIR DAVID MAXWELL-FYFE: If My Lordship pleases, my friend Mr. Roberts is going to deal with this witness, and he has selected the passages quite shortly from the statements which will be read.

THE PRESIDENT: Very well.

MAX WIELEN, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you stand up please?

A Yes.

Q What is your name?

A Max Wielen.

Q Your full name?

A Max Wielen.

Q Will you repeat this oath after me?

I swear by God, the almighty and omniscient, that I will speak the

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pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

EXAMINATION

BY MR. ROBERTS:

Q Max Wielen, you made two statements in London, through Colonel Hinchley Cook.

A Yes.

Q And are these photostats of the two statements--the first one dated the 26th of August, 1945, and the second dated the 6th of September 1945?

(The documents were submitted to the witness)

Are those the photographs of your true statements? Do you identify them? Do you see your signature at the end of each?

A Yes.

Q And in those two statements did you tell the truth?

A Yes, I told the truth.

MR. ROBERTS: My Lord, perhaps I should now read some passages so that they may go into the record.

Q If you take the first statement first, the statement begins with your name and the positions which you held in the SS and in the Criminal Police. That is right, is it not?

A Yes.

Q Well now, will you just follow the beginning of this statement?

A Of which declaration, the 6th of September, or the first one?

Q The first.

A The first one? I see.

Q Just follow it while I read. I will read the whole of the first pag

"Oberregierungsrat und Kriminalrat, SS Obersturmbannfuehrer" --I don't want you to read it, just listen to me--" formerly officer in charge of the Criminal Police at Breslau.

"I have to state, in answer to the question whether I know anything about the shooting of English prisoners of war, air force officers of the prison camp at Sagan, that I have knowledge of this matter and wish to make

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the following statement without reserve.

"Shooting took place on the express personal orders of the former Fuehrer, was carried out by the Gestapo. The officer in charge of the Staatspolizeileitstelle at Breslau was Oberregierungsrat Dr. Scharwinkel. His immediate superiors were Chief of the SIPO, Dr. Kaltenbrunner; Chief of Amt IV, SS Gruppenfuehrer Mueller. I am unable to give the names of the officers in charge of other districts of the Gestapo, who carried out shootings in their districts.

"I insert here a small chart showing the organization of the SIPO."

I now go to the bottom of page 2 of the English copy, and it is at the bottom of page 3 in the copy which the witness has in his hands in German:

"During the course of time"---and this is talking about Stalag Luf 3--- "99 escape tunnels had been dug. All of them had been discovered by the military. A hundred tunnels, dug in March 1944, proved successful to the extent that 80 officers were able to escape.

"Upon receipt of a telephone message from the camp headquarters to the Criminal Police I gave orders for the Kiregsfahndung, in accordance with the emergency instructions laid down. At Dr. Absalom's suggestion, having regard to the time lag, Grossfahndung was ordered. Moreover, the officer in charge of the Reichskriminal Polizei Amt had to be informed. He approved or confirmed the order for the Grossalarm. Gradually, the search, which was carried out in all parts of Germany, led to the re-arrest of practically all the escaped English officer prisoners, with the exception of three, I believe. Most of them were recaptured while still in Silesia. A few had got as far as Kiel, Strasbourg, and the Algav.

"Then, one day at noon I received a telegraphic instruction from General Nebe to proceed at once to Berlin to be informed of a secret order. When I arrivedin Berlin that evening I saw General Nebe in his office. I gave him a short, concise report on the whole matter. He then showed me a teleprint order signed by Dr. Kaltenbrunner, in which it was stated that on the express personal orders of the Fuehrer, over half of the officers escaped from Sagan were to be shot after their recapture. The officer in charge of Department 4, Gruppenfuehrer Mueller, had received corresponding orders and would give instructions to the Staatspolizei, and military office had been informed.

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General Nebe himself appeared shocked at this order. He was distressed. I was afterwards told that for nights on end he had not gone to bed. I too was appalled at the horrible step to be taken and opposed its execution. I said that it was against the laws of war; that it was bound to lead to reprisals against our own officers who were prisoners of war in English camps; and that I absolutely refused to take any responsibility. General Nebe replied that in this particular case I had indeed no responsibility whatever, because the Staatspolizei would act completely independently, and that, after all, the Fuehrer's orders had to be carried out without demur.

"I want to point out that when I first refused I acted on impulse and feeling, well knowing that I could not hope to prevail, in view of the conditions that had recently arisen within the Gipo.

"Nebe then added that I on my part was, of course, under an obligation to preserve absolute secrecy and that I had been shown the original order so that I should not make any difficulties vis-a-vis the Staatspolizei.

"My own duties as regards the transport of some of the prisoners would be transferred to the Staatspolizei. In this connection I want to explai that up to then the bringing back of prisoners to the camp had been the responsibility of the Kripo. Either they had to take them back to the camp themselves or they had to hold them until they were fetched by the camp staff.

"In answer to a question I declared that Dr. Schultze was present at the discussion with General Nebe. He nodded his head in agreement when I raised my objection; otherwise took no part.

"On my return to Breslau I learned from Dr. Schabwinkel that the Gestapo had been duly informed by Gruppenfuehrer Mueller. I was not apprised of the actual instructions. I also don't know whether a similar order was issued to other officers in charge of Staatspolizeileitstellen or whether orders were only given to those in whose areas arrests had been made and executions were to be carried out.

"According to instructions the police in the districts where arrests had been made had to inform the Reichskripo Amt by telegram or telephone that

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officer prisoners of war had been taken into custody. The Krip Leitstelle Breslau was also to be informed.

"How this shooting was carried out I do not know, but I presume that after Staatspolizei had collected the officers concerned from the prisons they were shot in some remote spot -- forests and so forth -- with service pistols of the Gestapo.

"In answer to the question whether the officers were possibly beaten to death, I state that I do not believe this, because the Fuehrer's order specifically mentioned shooting.

"The Staatspolizei had, in accordance with instructions received from RSHA, Department 4, described the shooting as if it had occurred in transit. The purpose of self-defense ought to prevent re-escape. This I afterwards learned from Dr. Schabwinkel.

"Later the Kripo Leitstelle at Breslau received a letter from RSHA, Department 5, which had to be communicated to the camp commandant with the request that its text should be made known to the English officer prisoners of war in order to frighten them. The letter explained that the shooting had occurred for the above-mentioned reason. The text of the letter was communicated to Oberst Lindeiner or one of the camp's staff officers.

"As regards the selection of officers to be shot, a list had been prepared by the camp authorities at the request of Department 5, in which those officers who were regarded as disturbing elements, plotters, and escape leaders had been specifically mentioned. The names were selected either by the commandant or by one of his officers.

"Thereupon the shooting of officers mentioned by name was accordingly ordered by Department 4 and corresponding instructions sent to the Staatspolizei of the district concerned."

I omit the next paragraph and I go to the bottom of the English copy, page 4; at the bottom of page 7 of the witness' copy; Witness, would you turn to page 7, please? You will find the passage marked in pencil at the bottom of page 7. I carefully numbered the pages.

A There is not ing marked in this.

Q If you turn over the page you will get something which is marked.

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A Nothing marked on page 7; something on page 8.

Q You will find something marked at the very bottom of page 7. At any rate, just follow these words -- "to revert to the shooting."

A Yes, I have it.

Q "Approximately forty English officers who have not been arrested by the Staatspolizei but the Kripo were meanwhile taken back to camp." When you said that -- of you will just answer the question -- you said approximately forty officers -- you didn't know the actual numbers, did you?

A The number is not correct. It was not forty. I didn't know at that time.

Q That's right, because it isn't the correct number. I think fifty.

A I made a mistake at that time.

Q "They had come to no harm whatsoever."

A Fifteen additional were brought back.

Q I just want you to listen, if you will be kind enough.

"I must assume that treatment was perfectly correct. It had been impossible to avoid putting them into police prisons due to the general condition then prevailing.

"I do not know who interrogated the officers in the police prisons. I assume this was done by the local police authorities, as an interrogation must necessarily follow every notification of arrest. I do not know the names of the officials."

A During the interrogation.

Q Yes. "I do not know the names of the officials of the Staatspolizei or the Gemeinde Polizei -- a small local police force who cooperate in this matter. Dr. Absalom will be able to supply

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the answer to this question."

Go on to the part beginning "the urns", if Your Lordship pleases:

"The urns containing the ashes of the officers who had been shot were transmitted by the Staatspolizei to the Kriminal Polizei. Which crematoria had been used by the Staatspolizei I am unable to say. The urns were handed over to the camp commandant by the order of RSHA for military Funeral. By this means, the return of the urns through the Kripo, the fact that Staatspolizei was connected with the matter was to be camouflaged."

Then I miss the next paragraph. Then I read one sentence, the next line: "I do not know why five officers were interrogated in Berlin."

Then My Lord, I turn to page 6. Witness, would you go to the bottom of your page 10. Just turn over the page. My Lord, take the middle paragraph. Just two paragraphs out of page 6 in a general way of interest.

"Even before my departure for Berlin criminal commissar Dr Absolam had told me that he had heard in Camp Sagan--he was told this in a very secretive way--that shootings were to take place in order to deter officers. From this may be deduced the fact that the camp will already be informed through military channels of the order to shoot issued by Kaltenbrunner. It would be useful to ascertain what Goering knows about the whole affair, because the Fuehrer must surely have informed him of the order, since it concerned a camp of the Luftwaffe."

My Lord, that is all of that statement. I am anxious to avoid reading as much of the second statement as possible , because there is a good deal of repitition. You take the second statement now, witness. That one, I am afraid, has not been marked. The third and fourth paragraphs on the first page of the statement:

"As to when the Staatspolizei had begun the shootings I am not in a position to say, but I imagine it happened when only a few prisoners were still at large and their capture could no longer be reconed with. As regards the lapse of time between the order for Grossfahndung and being shown the orders for the shootings, this could only have been a matter of a few days. I can no longer recall exact dates. I di know, however, for certain that no shootings have taken place anywhere at the time when the order was shown to me.

Then perhaps I could read the last paragraph but one on that page: "Before the last escape had taken place, I had heard nothing about the prospect of more drastic measures to be taken against the prisoners. I heard of it only after the final escape but before I had been shown in Berlin the order for the shootings. It was then that Dr. Absalom had told me that he had heard in Sagan Camp -- from whom I do not know, although I believe it was Oberst Lindeiner -- that further shootings would take place. When this particular order was shown to me in Berlin it appeared to me to be merely a proof that the military were behind this brutal measure or at least it had knowledge of it before the RSHA. As regards the expression, 'more than half' in the order of Dr. Kaltenbrunner -- this is how the wording is fixed in my mind; however, it is quite possible that a specific number was given and that I, in quickly glancing through the order, interpreted thus in my mind, that that is more than half."

My Lord, perhaps I might read -- omitting the first several paragraphs which are really repetitious -- a paragraph just a little more than half-way down the page: "I do not know how the Gestapo took over from the local prisons, those officers who were to be shot. It is, however, possible that the Gestapo got in touch with the KRIPO. In Lower Silesia, the firing squads were detailed by the officer in charge of the Staatspolizei, Dr. Scharpwinkel, or by his orders. I never heard who belonged to these squads."

Then the last paragraph on that page: "I declare in answer to the question as to why the KRIPO did not carry out the shootings, that in the execution of its duties the KRIPO felt themselves bound by the provisions of the Strafgesetzordnung and the Reichsstrafgesetz, and that their personnel were trained in accordance with these standards. On the other hand, during the war, the Staatspolizei had, incited by Himmler, become less scrupulous. They carried out executions on the orders of the RSHA or with the approval of that department whenever required. That is the reason why German citizens' general detestation of the Staatspolizei did not extend to the KRIPO. The urns were obviously returned to the KRIPO for the sole reasons that the intervention of the Staatspolizei should not become publicly known; i.e. the English officers in camp should not become aware of it."

My Lord, I think that is all I need read.

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THE PRESIDENT: Do any of the defense counsel want to ask any questions of the witness?

DR. NELTE: Dr. Nelte, counsel for Keitel.

BY DR. NELTE:

Q Witness, during your activities and during this terrible matter, were you in touch with the OKW or the defendant Keitel in any way?

A No, neither with the OKW nor with Fieldmarshal Keitel, nor with any other high officers.

Q Did I understand you correctly when you stated that the order that we are talking about here, so far as you know, went over the path from Hitler to Himmler, to the RSHA, and then the lower officers?

A Yes, that is the organizationally correct path it should have taken and it did.

Q By whom was the list demanded, of which you spoke, the list that was to contain the names of those who made a nuisance of themselves?

A That was asked for by the RSHA.

Q In the second half of what was read just now, a sentence is contained that reads: "The camp commander must have been informed through military officers of the intended shooting ahead of time."

A No, I should not like to repeat that here so strongly. It is possible that it might have been discussed, the shootings might have been discussed in the camp or that sharper measures in general would be taken toward English officers if escapes continued but in this connection, I know nothing more specific; namely, in the connection of which we are concerned here.

Q Then you do not want to insist on the fact that we are here dealing with remarks that were made before the flight?

A No, at least not so far as these shootings are concerned; at least not in direct relationship to this particular flight or escape.

Q But it is not possible to know ahead of time if someone is going to escape. For that reason I ask you whether this remark is related to some discussion that took place in connection with the flight of these officers and which perhaps was directed toward the future prevention of escapes?

A That is altogether possible because continual attempts to escape were made at Sagan.

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Q Then would you like to clarify the statement, according to which Colonel Lindeiner is said to have stated, that military officers stood behind these measures and had been informed of them?

A I don't believe I expressed myself just that way. Could you please repeat that?

Q According to my notes, you said that Colonel Lindeiner stated that military officers stood behind this measure and hadbeen informed of it ahead of time.

A I cannot believe that I made that statement.

Q Then do you want to say that you cannot state that Colonel Lindeiner made such an assertion?

A I never had the impression that Lindeiner was personally informed in this matter. I have no more reasons to believe so.

DR. NELTE: No further questions.

DR. STAHMER: Dr. Stahmer, for the defendant Goering.

BY DR. STAHMER:

Q Witness, according to this document, you stated that the Criminal Commissar Absalom, even before your departure for Berlin, had informed you that he had heard in Camp Sagan that shootings were to take place?

A That is in connection with this same matter, yes.

Q Another question. During the discussion that you had with General Nebe in Berlin, General Nebe said to you that the military officers were informed. Did he state more precisely what military officers were here concerned?

A No, that was not said. Moreover, I do not know whether this was intended or whether it already turned into fact because this whole matter was to be regarded as top secret and was to be kept secret.

Q In your testimony here, you mentioned Reichsmarshal Goering. Do you have any documentation that Goering knew of these shootings or is that merely conjecture on your part?

A I believe you can see from what I said here, that I wanted to leave that question entirely open. I have no particular reason to make specific statements in this matter but since he was the high officer in the Luftwaffe, I could only assume that the Reichsmarshal could have been informed on this

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matter.

Q In other words, it was only a conjecture on your part?

A I had to leave this matter open in order to proceed any further in the matter at all.

DR. STAHMER: That is all.

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BY DR. KAUFMANN (Counsel for defendant Kaltenbrunner):

Q Witness, you stated that the order had been given by Kaltenbrunner and Mueller. Now, I ask you was this order in the form of a telegraph or a telegraphic communication or did you see the original of it, or what?

A I believe I can state definitely that it was a telegraphic communication.

Q Do you know for sure it was not an original?

A Yes, I know that for sure. In fact I felt indeed doubts about this later because I thought about it hundreds of times and it occurred to me to wonder whether or not this might not possibly have been signed by Himmler but from the organizational point of view it would have been Kaltenbrunner who signed it.

Q So, in other words, if I understood you correctly, you cannot even state definitely that the thing was really signed by Kaltenbrunner but that rather you simply assume that it was because of your knowledge of how things were organized?

A Because of the contents of the communication and because of the importance of it I was so impressed that I paid little attention to the mechanical matters involved in the transmission of this order so that I cannot make a statement with definite certainty as to who signed it.

Q Thank you.

MR. ROBERTS: No further questions.

THE PRESIDENT: The witness can retire.

Dr. Nelte, does that close the case for the defendant Keitel?

DR. NELTE: So far as witnesses are concerned that closes the case for Keitel, yes. I have a few further remarks to make.

The Tribunal has seen an affidavit by Dr. Krieger and has approved it by its ruling of the 5th of April, 1946. I ask the Tribunal to permit me to put this affidavit in evidence as Document K-15. I have the German original here and I should like to read only that part of the affidavit that describes the relations between Hitler and Keitel. This involves three short paragraphs.

"The relations between Hitler and the previous Field Marshal Keitel were officially correct and on Hitler's part, in general, he had

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confidence and was full of respect for a faithful servant and Keitel on his part was upright and honest. There was, however, no further friendly or confidential note between them, aside from official occasions, receptions and so forth.

"So far as could be ascertained Keitel hardly took part with Hitler in anything which was not obligatory nor shared any meals with him. If Keitel was called to conferences with Hitler outside the official conferences at which there were no stenographers present these were not observed to have taken place. In preparing decisions or in formulating orders Keitel gave expression to his opinions if they happened to differ in an objective, capable manner as befits a soldier. He apparently knew, from many years of collaboration with Hitler, the possible limits of influencing his opinions or decisions or of changing his mind. For that reason he generally accepted Hitler's decisions as orders in a soldierly attitude. However, in individual cases he succeeded by emphatic reasoning in changing decisions or at least in delaying them in order to have them further examined.

"Hitler, at times, did not seem to trust Keitel completely which can be gathered from one of his remarks, made to his most intimate circles."

THE PRESIDENT: Dr. Nelte, it appears to the Tribunal it is not really necessary to read this. Keitel has already said it, it is cumulative to him and the document itself is in evidence and so we can read it ourselves.

DR. NELTE: It is not necessary but it simply corroborates what has been testified to here.

THE PRESIDENT: It is sufficient that you tell us that.

DR. NELTE: I have further the answer to several interrogatories that I sent out that were permitted by the Tribunal.

First, there is the answer to the interrogatory submitted to Mr. Rommilly. I can put in evidence this interrogatory and in that form submit it to the Tribunal and can thus forego any reading of it. The same is true of the answers to the interrogatory submitted to the witness Rotrautroemer, as to the question of the marking of Russian prisoners of war.

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The Naville and Scarpini interrogatories are not yet at hand. I shall submit them as soon as they arrive.

THE PRESIDENT: Have the Prosecution had these documents?

DR. NELTE: Yes.

THE PRESIDENT: Have you given numbers to these? You have given the number K-15 to the last affidavit. You ought to number the others.

DR. NELTE: Rommilly is K-16 and Roemer is K-17.

I have now only the affidavit of the late Field Marshal von Blomberg. As ruled by the Tribunal on the 25th of February, it was allowed that he be interrogated. I have shown the original to the Prosecution and I ask to be allowed to put it in evidence, the sworn statement of von Blomberg. It is in document book one and is known both to the Tribunal and to the Prosecution.

THE PRESIDENT: Yes, Dr. Nelte?

DR. NELTE: That concludes my case.

THE PRESIDENT: Dr. Nelte, you are lodging these original documents that are numbered K-16, 17 and 18 with the General Secretary?

DR. NELTE: Yes.

THE PRESIDENT: Have they been translated?

DR. NELTE: Yes.

THE PRESIDENT: Very well.

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THE PRESIDENT: Dr. Nelte, we have not seen a translation of K-16, but you are sure that it has been translated, are you?

SIR DAVID MAXWELL FYFE: I have seen an English translation of it.

THE PRESIDENT: You have?

SIR DAVID MAXWELL FYFE: It was shown to me when it came in. I remember reading it.

THE PRESIDENT: Very well, the General Secretary's Department will see that we are furnished copies of it.

THE PRESIDENT: Yes, I think that is the one. That is K-16.

SIR DAVID MAXWELL FYFE: Certainly, I think Rommel is K-16. I have seen it.

THE PRESIDENT: Very well.

Dr. Horn, do you remember that we read these document at the time that we approved their admissibility?

DR. HORN: (Counsel for defendant Ribbentrop): Yes.

THE PRESIDENT: So it would not take you long to introduce them in evidence?

DR. HORN: I shall limit myself to an absolute minimum.

THE PRESIDENT: Thank you.

DR. HORN: I should like to ask the Tribunal first to contemplate Document R-75, contained in Volume 3, on page 191 of Ribbentrop's documents. It is a question here of an agreement between the Allied and other powers and Poland of the year 1919. This agreement defines the rights of the German minorities in Poland. In Article 12 of this Treaty, which is on page 3 of this document, it is said that Poland is agreeable to agree to the principles set down and to respect racial and linguistic minorities. The correct treatment of such minorities will be put under the supervision of the League of Nations. In the subsequent years Poland repeatedly infringed on this Treaty. That can be see from the document No. 82, on page 208 of document book No. 4.

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This is a testimonial on the part of the permanent court. It is of the 10th of September, 1932. In order to save time I might just read the conclusion, where it is said,"The Court is of the opinion that the attitude defined under Points 'A' and 'B' do not here stand in accordance with Poland's international obligations." I ask the Tribunal to take judicial notice of this document also, as well as the next document No. 84, which is on page 212 and 212-A of the fourth Ribbentrop document book. This, too, is a statement on the part of a judicial committee of the League of Nations on minority questions. I ask the Tribunal to take judicial notice of this report.

Immediately after the G overnment had been taken over by Hitler's men, it was attempted to establish good relationship with Poland. As evidence for this, I am referring to Ribbentrop Exhibit N o. 85, which is on page 213 of the document book. I am reading from page 2 of that document.

THE PRESIDENT: One moment. Is that document book 4?

DR. HORN: Y es, 4, page 213. I am reading from page 214 of that, center of first paragraph:

"H e, the Chancellor, only wished that the outstanding political questions existing between Germany and Poland could be examined by the statesmen of both countries and examined without passion. H e was convinced that some way out of the present untenable position could be found. Germany desired peace. The forceful capture of British territory was not his intention, but he was reserving himself those rights to which he was entitled according to the pact, and he would refer to them at any time and when he thought fit."

There are two official communiques. They were issued by a request of the P olish Ambassador, and this is Ribbentrop Exhibit No. 86. This is the German communique, and I request the Tribunal to take judicial notice of it, and also the next document, No. 87, on page 216 of the document book, which is the

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Polish communique. So as to save time, I do not propose to read these communiques.

On the 15th of July, 1937, considerable parts of the German-Polish pact regarding anti-Silesia were enforced which should have been made in Geneva in 1942, but they expired. The necessity arose, therefore, to create a new pact between the two countries, particularly since additional difficulties arose due to the question of minorities and the treatment of German minorities. As evidence for this, I refer to document, Ribbentrop Exhibit No. 117, on page 254 of the document book, and I should like to read the second paragraph where it says:

"The minister has pointed out to the Polish Ambassador that the rigorous Polish point of view regarding the expulsion could not be accepted by us."

THE PRESIDENT: I could not see that on page 254.

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DR. HORN: Page 257, Mr. President.

THE PRESIDENT: Yes, I see it.

DR. HORN: The success of those conferences between the Poles and the Germans arose in the Ribbentrop Exhibit 123; it is a pact which appears on page 263 of the document book. This is a coordinated declaration origination from the Polish and German Government regarding the protection of their respective minorities, It was published on November the 5th, 1937. Sa as to save time, I can point out that the German minorities were given those rights whicl were in existence between civilized states in similar cases. May I also point out that this agreement does not contain anything which can be considered the sanctioning of any wrong previously committed in this respect, a point of view which was recently represented by the Prosecution.

So as to alleviate the difficulties between Danzig and Poland and to clarify the economic difficulties, on the 5th of August 1933, an agreement was reached, which is Ribbentrop Exhibit No. 127, and which is on page 270 of the document book. May I request the Tribunal to take judicial notice of it.

Since, in spite of these agreements, the question of minorities still existed as well as the problem of the Free State of Danzig and cuased continuous difficulties between the two states, Hitler gave the order to the defendant Ribbentrop that after the solution of the Sudeten-German question in October 1938, to commence negotiqtions regarding the Danzig and Corridor questions as well as the question of minorities. For this reason, the then Polish Foreign Minister, Colonel Beck, was invited to come to Berchtesgaden. The discussion which took place on that occasion between Hitler and the Polish Foreig Minister are contained in Ribbentrop Exhibit No- 149, on page 301 of the document book No. 5. May I quote from page 2 of the document to explain what the main features of this conference were? On page 6, it says:

"On the part of Germany, apart from the problem of Memel, which would probably be solved in Germany since there was the appearance that the Lithuanians would cooperate in a reasonable solution, there were problems which in the opinion of Germany were extremely difficult reffering to Danzig and the corridor, and which would have to be solved."

On page 3 of the same document, last line of the last but one paragraph,

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it says:

"Foreign Minister Beck promised that he would willingly think about the problem. With that German considered that negotiations regarding this problem had begun."

On the 24th of January, that is to say, the following day, the then Reich Foreign Minister von Ribbentrop had a discussion with the Polish Minister Beck during which the question of minorities was once more touched on. That discussion is contained in Ribbentrop Exhibit No.150 on page 304. May I ask the Tribunal to take judicial notice of this document?

By invitation of the Foreign Minister Beck on the 24th of January 1939, there was a meeting between Reich Foreign Minister von Ribbentrop, who went to Warsaw. Once more the entire problem was discussed.

On the 21st of March, after the Czech question had been settled, the reorganization in the East became necessary. The then Reich Foreign Minister von Ribbentrop therefore asked the Polish Ambassador, on the 21st of March 1939, to come and visit him. The contents of that conference is contained in Ribbentrop Exhibit No. 154, on page 310 of the document book. May I quote the third paragraph, page 3, which is the leading point regarding that conference?

"Generally, the settlement of the Corridor question was considered the worse burden, due to the Versailles Treaty, for Germany."

A few lines later, it says:

"The Reich Foreign Minister von Ribbentrop explained that a prerequisite would be that Danzig would be returned to the Reich, and he suggested the creation of an extra-territorial road and railway connection between the Reich and East Prussia. He promised that Germany would in exchange guarantee the Corridor. Ambassador Lipsky promised to inform Mr. Beck accordingly and then to give me an answer."

May I ask the Tribunal to take judicial notice of this document as well?

Although the German Government expected that on the strength of these discussions the question of the minorities and the question regarding Danzig and th Corridor would find some solution, these discussions had the opposit effect.

It appears from Ribbentrop Exhibit No. 155, on page 313, and Ribbentrop Exhibit No. 156, on page 314 of the document book, that Poland at that time ordered partial mobilization. That partial mobilization could only be directed against Germany.

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Apart from that, the settling of the Czechoslovakian question on the 15th of March, 1939, had been laid to a change of attitude on the part of Britain. The former Prime Minister, Chamberlain, under pressure from the Opposition, had had consultations with various European statesmen. As evidence of this fact, I am referring to exhibit, von Ribbentrop 159, which is page 317 of the Document Book. This is a conversation of the Reich Minister for Foreign Affairs, von Ribbentrop, with the Polish Ambassador, Lipski, in Berlin on March 26, 1939. May I quote its beginning, which is as follows:

"On the 21st March the British Governmentproposed first of all in Warsaw, as well as in Paris and Moscow, that a formal declaration by the British, French, Russian and Polish Governments shall be made."

I shall then skip a few lines, and quote further as follows -- line 7 from the bottom:

"The Polish Government which ordered partial mobilization on the 23rd March was in no way satisfied with this British proposal for negotiations but demanded a more concrete commitment on behalf of England regarding Poland. Therefore, on the 23rd of March Foreign Minister Beck instructed the Polish Ambassador in London, Count Edward Raczinski, to submit to the British Government the following proposals of an Anglo-Polish union, referring to the English proposal. It says: I request you to ask Lord Halifax if (1) in view of the difficulties and the unavoidable complications and ensuing loss of time"--

MR. DODD: Mr. President, I see no reason -- if I may say so with a great deal of respect -- for reading any part of these documents. They are all in evidence, or will be, and it seems that all that need be done now is to give them numbers. I know we read and commented from documents earlier in the trial, when we put in the Prosecution's case, but the compelling reasons for that system are not present now and cannot apply as far as these Defendants are concerned.

THE PRESIDENT: Mr. Dodd, the Tribunal would like to know what the compelling reasons are that you were referring to.

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MR. DODD: Yes, I shall be glad to. At that time it was physically impossible for the Prosecution to have its material all translated in the four languages, or the three languages in addition to the ones in which the original was written. Now the Defendants do have those facilities. Had we been able to have our papers all translated, we would have submitted them and would not have commented; but the necessity for comment was real at that time, because we had to get everything into the record, over the sound system, and if we read a lot of disjointed excerpts from documents we could not have related a chain of evidence before this Tribunal. But I say that now the Defense can do so -- submit the whole document, and later on, as I understand the rules and the Charter also, we will have an opportunity to argue and comment about it as evidence.

THE PRESIDENT: But you will remember that this matter was argued a week or so ago. And if I remember rightly, Dr. Dix argued in favor of the Defendants' Counsel being still entitled to read such passages as they wanted, and with short connecting remarks, and we adhered to that rule.

MR. DODD: I didn't understand that your Honors had already ruled. I remember that Dr. Dix's principal reason was that he wanted an opportunity to make this information available to the press or the public. If that is still the reason, they are all available; the press can have them without having them read over this microphone. However, I won't press the matter if the Court has already ruled.

THE PRESIDENT: I think so.

GENERAL RUDENKO: I would like to say a few words on the subject of Mr. Dodd's proposal. I fully supported --

THE PRESIDENT: General Rudenko, I have just pointed out to Mr. Dodd that we have made a specific ruling upon this subject and in the opinion of the Tribunal Dr. Horn has been performing his task with great discretion.

GENERAL RUDENKO: I still would like to be permitted to make a few remarks in regard to Mr. Dodd's proposal.

As the Tribunal will remember, just before the start of the questioning of the Defendant Keitel the Defense gave full documentation for Keitel, and the Tribunal looked into the matter of what document was to be accepted and what was to be declined --

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THE PRESIDENT: General Rudenko, you are repeating the very words I used to Dr. Horn when he began, and as I say, in the opinion of the Tribunal Dr. Horn has met the views of the Tribunal and has made his reading of these documents reasonably short.

GENERAL RUDENKO: I understand, Mr. President. I merely wanted to remark that the Soviet Prosecution considers that Dr. Horn's comments are superfluous at the present time.

THE PRESIDENT: Dr. Horn, I am sure you will continue to use every possible means of cutting it short as much as you can.

DR. HORN: I hope, Mr. President, that I have convinced the Tribunal that I am trying to be as brief as possible and that I assure you that I shall read only as much as is necessary to make it understandable and why I am presenting the document at all.

THE PRESIDENT: It is half-past three. Shall we adjourn now?

(A recess was taken)

DR. HORN: I had last quoted from Ribbentrop Exhibit 159, page 317 of the Document Book. I had quoted some passages, and I wish to briefly summarize what this document is.

This document contains the request from the Polish Government put to England regarding consultations which should take place and led to a concrete agreement. That agreement was in fact made between March 21st and March 26th, and between England and Poland.

Furthermore, and as a parallel to this, there is the coalition policy on the part of England which is proved by the documents, 182 to 184, pages 370 of the Document Book No.5. This and points which arise from 182 concerning the following states -- and I am quoting from Document 182, page 6:

"The following countries are to be included and have been invited to participate in the question of guarantees -- Russia, Poland, Turkey and Yugoslavia. It is said to be definitely established that Hungary was not approached and that it was up to Poland to approach Lithuania, Estonia and Latvia. The same applies to Turkey with regard to Greece."

As evidence of this policy of coalition, I am referring to Document 185, page 372 of the document book. This is a telegram from the German charge

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d'affaires in London to the Foreign Office, and I should like to briefly quote:

"The existing news proved clearly that the plan for a declaration on the part of Britain can be divided into two parts. The first part deals with the guarantee of Belgium, Holland and Switzerland; the second part aims to protect the Eastern countries against aggression. The British Cabinet is supposed to be informed by a military spokesman that Roumania, because of her oi-wells, will definitely have to be protected against German military seizures."

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I ask the Tribunal to take judicial notice of Document Ribbentrop 186. Without that I propose to read from it, and I also ask that document number 18 be taken judicial notice of, which is on page 375 of the document book and which, once more, so as to save time, I do not propose to read.

Based on this policy of coalition on Britain's part whichwas directed against Germany, the alliance between Germany and Italy was concluded on 22 May 1939. I am submitting it as an exhibit, Ribbentrop 187. It is on page 376 of the Document Book Ribbentrop. I am submitting it to the Tribunal forjudicial notice, without wanting to read it.

The result of the promise of a guarantee given by England to Poland was that Ambassador Lipsky on 26 March 1939, on the occasion of a conference with the Reich Foreign Minister von Ribbentrop, declared--and I am here referring to Exhibit Ribbentrop 162 and quoting from the third paragraph:

"Lipsky replied that it was his unpleasant duty to point out that any further pursuance of these German plans, particularly regarding a return of Danzig to theReich, would mean a war with Poland."

I ask the Tribunal to take judicial notice of this document. The same applies to the previous document, Ribbentrop 160 on page 320 of the document book, which refers to the consultation between Britain and the governments previously mentioned.

On the strength of the declaration of Lipsky which I have just read--namely, that further pursuance of an attempt to alter the status quo regarding the Corridor and . . Danzig would mean war--the Reich Foreign Minister stated on 27 March 1939 to the Polish Ambassador--and I now quote from Ribbentrop Exhibit 163 on page 335 of the document book--that this attitude could not be the basis for a settling of these questions so far as Germany was concerned. The corresponding passage is the last but one paragraph on page two of the document where it says:

"In conclusion the Foreign Minister remarked that he no longer knew what to make of the attitude of the Polish Government. They had given a negative answer to the generous proposals which Germany had made to Poland. The Foreign Minister could not possibly regard the proposal, submitted yesterday by the Polish Ambassador, as a basis for the settlement of

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existing problems. The relations between the two countries were therefore becoming more and more critical."

I am asking the Tribunal to take judicial notice of this document. So as to prove that the Anglo-Polish guarantee pact was clearly aimed against Germany, I am submitting to the Tribunal under Exhibit number Ribbentrop 164, which is on page 338 of the document book, and I am quoting the last two lines, where it says that the pact was only to cover an attack on Germany's part. The Polish Government is confirming this as correct. I am asking the Tribunal to take judicial notice of the document.

The result of the Anglo-Polish agreement of April 6, 1939, which has been submitted by the Prosecution as Number 72 but which appears on Page 337 of my document book, was the termination of the Polish-German agreement of January 26, 1934, since Germany was now convinced that the Anglo-Polish guarantee was contrary to the spirit of this agreement.

Subsequently there were a number of excesses against the German minorities in Poland. The documents referring to this are contained in my document book under numbers 165 to 181. I am asking the Tribunal to take judicial notice of these documents and so, to save time, I shall limit myself to very short quotations.

I am referring to Exhibit 166, which states that serious clashes occurred in Njevo and Bromberg.

I am also referring to Exhibit Ribbentrop 167 on page 353 of the document book, which states that during recent days there had been a public appeal in Warsaw which was an invitation to boycott German trade and handicraft.

Furthermore, as evidence for my statement, may I refer to Exhibit Ribbentrop 180, which is on page 368 of the document book Ribbentrop. May I read this brief report, which I quote as follows:

"During the last few months the German Foreign Office has continuously received reports from the German Consulate in Poland about the cruel treatment to which members of the German minority are subjected by the Poles, who have been more and more lashed into fury and have abandoned themselves to unbridled fanaticism. In the Appendix 38 especially grave

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cases have been collected."

From Document 181 on page 369 of the document book, it appears that these clashes did, in fact, take place with the knowledge and under the protection of Polish statesmen and high officials. As evidence for this, I am referring to Document 181, but for purposes of saving time, I am not going to read from it, but am asking the Tribunal to take judicial notice of it.

At the beginning of August 1939 the German-Polish relations suffered an acute crisis. As evidence for this, I am presenting Exhibit Ribbentrop Number 188, on page 381 of my document book. The cause was actually a small one. There was an argument regarding the functions of the customs officials on the Danzig frontier. Because of this argument, the diplomatic representative of the Polish Republic in Danzig made a protest to the President of the Senate of the Free City of Danzig, and that is contained in Exhibit Ribbentrop 188.

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It had an ultimatum, which becomes clear from paragraph 3 of the document.

In answer to this, on the 7th of August, the former President of the free city of Danzig replied, as appears in Exhibit Ribbentrop 189. I am asking the Tribunal to take judicial notice of this document also.

In Exhibit Ribbentrop 190, on page 383, you will find a warning, stated on behalf of the Reich Government, forewarning Poland not to state any ultimatum. I am asking the Tribunal to take judicial notice of this document as well, as I do not propose to read from it.

The next document I am presenting is Exhibit Ribbentrop 192, which is on page 385 of the document book. This is a document from the Under-Secretary of State at the Polish Foreign Ministry to the German Charge d'Affaires in Warsaw, and it isdated August 10, 1939. It appears, from the last two lines of the document, that Poland was refusing any intervention of the German Government and would consider that an aggressive act.

These notes created an even more critical situation regarding Anglo-Polish relations. The Reich Government and its departments attempted to avoid a final conflict. As evidence for this, I am submitted Exhibit Ribbentrop 193, which is on page 404 of the document book, and I am asking the Tribunal to take judicial notice of it.

This is a memorandum of the State Secretary in the Foreign Office. It is in document number 6, by the way, and on page 404 of the document book. This is a memorandum regarding a visit of the French Ambassador to the Secretary of State at the Foreign Office, Weizsaecker. During that conversation the former Secretary of State, Weizsaecker, emphasized that Germany had no more urgent wish than an agreement regarding the question of Danzig. The French Ambassador assured that his government would cooperate in these attempts.

I am asking the Tribunal to take judicial notice of this document, Ribbentrop Exhibit No. 193, and the next document, number 194, on page 406 of the document book, the last document which is concerned with the discussion between the Secretary of State and the British Ambassador, Sir Neville Henderson, during which the German Secretary of State pointed out the seriousness of the situation.

I am reading from page 1 of the document, the third paragraph, fifth line,

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the following sentence which characterizes the situation: "Danzig was only protecting itself against its protector."

Apart from that, the State Secretary pointed out that the situation regarding Danzig had now reached extreme tension.

The next document I am referring to is Exhibit Ribbentrop No. 195, on pages 408 to 415. This document refers to a conference between Hitler and Ambassador Henderson on the 23rd of August, 1939. A report of this conference is contained in Ribbentrop Exhibit 199, on page 422 of the document book Ribbentrop. I am also asking the Tribunal to take judicial notice of this document, and, so as to clarify the content of that conference, I am going to quote from page 4 of the document, where it says that he, Hitler, "once more drew attention to the Danzig and Polish question in connection with which it was England's attitude that this war might be something to Germany's advantage."

The second paragraph from that states that "the Fuehrer said that the fact that England was against Germany regarding the Danzig problem was deeply shaking the German people.

"Henderson then stated that one was merely defending oneself against the principle of force, whereupon the Fuehrer answered whether England was in any way trying to find a solution by negotiation of the idiocies of Versailles.

"The Ambassador had no reply to this, and the Fuehrer then stated that according to a German slogan, there should always have to be two to make a friendship."

That is the end of the quotation.

Because of this tension, a letter was written on August the 22nd, 1939, by the late Prime Minister

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Chamberlain to Hitler direct. This letter is Exhibit Ribbentrop 200, on page 426 of the document book. I am asking the Tribunal to take judicial notice of this document.

The next document I am coming to is Exhibit Ribbentrop 201, and it contains Hitler's reply to the British Prime Minister, Chamberlain.

On the 25th of August, 1939, there was yet another meeting between Hitler and Ambassador Sir Nevile Henderson. That meeting is contained in Exhibit Ribbentrop No. 202, which is on page 431 of the document book Ribbentrop. May I refer to paragraph 5, where Hitler emphasized once more that the problem of Danzig and the Corridor would have to be solved.

On the following page, in paragraph 3 on page 2, it says: "The Fuehrer would be prepared to make an offer to England regarding the solution of this problem."

This offer is contained in the same document, and it is stated in detail in document 202.

Henderson made an entry regarding this discussion, in his diary, which is Exhibit 195, on page 415, and he is referring to this last-mentioned meeting of August the 25th, 1939.

"My interview with Hitler", says Henderson, "at which Herr von Ribbentrop and Dr. Schmidt were also present on this occasion, lasted over an hour. The Chancellor spoke with calm and obvious sincerity. He described his proposals as a last conscientious effort to secure good relations with Great Britain, and suggested that I ought to fly to London with them myself."

Under number 8, on the same page, 415, Henderson continues to say: "Whatever may have been the underlying motive of this final offer on the part of the Chancellor, it was one which could not be ignored."

The next document, which refers to the events and the crisis which led up to the outbreak of war, is Exhibit Ribbentrop No. 208, on page 451 of the document book.

Where I am not reading, I am asking the Tribunal to take judicial notice of the entire document.

The first extract from this document, which is a telegram from Lord Halifax to Sir Kennard in Warsaw, states the following, and I am quoting:

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"The reply suggested by us to be made to Hitler draws a distinction between the method of reaching an agreement on German-Polish differences and the nature of the solution which should be achieved. As far as the method is concerned, we wish to express clearly that in our view direct discussion between the parties on equal terms appears to us to be the proper means."

This request for direct negotiations is an essential part of the events which followed.

Under number 5 of the same document, on page 425 of the document book, it states as follows:

"As the Polish Government, in their reply to President Roosevelt, appear to accept the idea of direct negotiations, His Majesty's Government earnestly hope that the Polish Government, in the light of the considerations set forth in the foregoing paragraph, will authorize them to inform the German Government that Poland is ready to enter at once into direct negotiations with Germany."

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In the following document, which has the same number and is on the same page, you will find a telegram from Sir Neville Henderson to Lord Halifax, which was dispatched on August 29, 1939. Great Britain's role is once more clarified. It says under number 3 of this document:

"Note observes that German proposals have never had for their object any diminution of Polish vital interests and declares that German Government accepts mediation of Great Britain with a view to visit to Berlin of some Polish plenipotentiary. The German Government adds the note:

"Count on the arrival of such a plenipotentiary tomorrow, Wednesday, the 30th of August. I remarked that this phrase sounded like an ultimatum, but after some heated remarks both Herr Hitler and Herr von Ribbentrop assured me that it was only intended to stress the urgency of the moment, when the two fully mobilized armies were standing face to face."

These proposals, which I have mentioned previously and submitted in another exhibit, had the following reaction in Great Britain. I am reading from page 453 of Ribbentrop's document book. It is a telegram from Lord Halifax to Sir Neville Henderson of August 30, 1939. It says:

"We shall give careful consideration to German Government's reply, but it is of course unreasonable to expect that we can produce a Polish representative in Berlin today, and German Government must not expect this."

In the meantime the situation had become so serious that Sir Neville Henderson didn't consider that a success of Britain's action could be possible. This is contained in the same document on page 454. This is a telegram from Sir Neville Henderson to Lord Halifax. I am merely reading a short quotation from point 3 of the telegram:

"While I still recommend that the Polish Government should swallow this eleventh-hour effort to establish direct contact with Herr Hitler, even if it be only to convince the world that they were prepared to make their own sacrifices for preservation of peace."

The Polish Government was, nevertheless, not willing to enter into direct negotiations. This can be seen from the same document on page 454, from which I am only reading the first three lines. It is a telegram from the British Ambassador to Warsaw to Lord Halifax, and it states:

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"I am convinced that it would be impossible to get the Polish Government to send Mr. Beck or any other representative to Berlin immediately."

In the same telegram the British Ambassador is emphasizing under No. 4. I quote:

"I am, of course, expressing no views to the Polish Government nor am I communicating to them Herr Hitler's reply until I receive instructions, which I trust will be without delay."

Through the failure to pass on the German Government's proposals, direct negotiations were made impossible. As evidence for the fact that the Polish Government, too, had no intention of entering into such direct negotiations, I am referring to page 465 of the same document, which is a telegram from Lord Halifax to Sir Kennard in Warsaw. Once more he is asking the Ambassador to invite the Polish Government to enter into direct negotiations. I am not quoting from this document, but I am quoting from the next document, page 466, which is an extract from the British Blue Book and which refers to the Polish reaction. It is a telegram from Sir Kennard to Lord Halifax, August 31, 1939. I am going to read the first three paragraphs of this document. From these paragraphs it becomes clear what the Polish attitude was regarding the possibility of direct negotiations. I quote:

"Mr. Beck has just communicated the Polish reply to my effort of 1st night in writing."

The second paragraph states:

"I asked Mr. Beck what steps he proposed to take in order to establish contact with the German Government. He replied that he would instruct Mr. Lipski to seek an interview with the minister for foreign affairs or state secretary in order to state that Poland had accepted British proposals. I urged him to do this without any delay. I then asked him what attitude Polish Ambassador would adopt if Herr von Ribbentrop or whomever he saw handed him the German proposals. He said that Sir Lipski would not be authorized to accept such a document, as in view of past experience it might be accompanied by some sort of ultimatum."

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This extract from the British Blue Book proves that asfar as Poland's part was concerned any possibilities of

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clarifying the question of Danzig or the minorities was refused.

In this manner it was no longer possible for the German Government or British Government to discuss this question with Poland any further. As evidence for further efforts I am submitting to the Tribunal the Exhibit Ribbentrop No. 209 on page 494, of which I am asking the Tribunal for judicial notice.

The next document is Exhibit Ribbentrop No. 213, which is on page 504b of my document book. This last document is an official German memorandum regarding the negotiations and subject of negotiations during the time of the Polish-German crisis. Since Poland was unable to discuss these questions of Danzig or the Corridor with Germany, a war arose between those two countries.

When I discuss the legal situation and international law situation of this war I shall go into this in detail. What I want to state today is that the lack of any effective international institution for the alteration of the insufferable status quo was the final reason which led to the outbreak of war in 1939.

The next subject I am submitting to the Tribunal are the documents which refer to the occupation of Denmark and Norway by Germany. These are the documents Exhibits Ribbentrop No 216a, on page 509 of the document book; 216b, and 217. I am asking the Tribunal to take judicial notice of these documents, and as far as evidence and the actual events are concerned I am referring to the documents and statement which my colleague, Dr. Siemers, will be submitting to the Tribunal when he speaks on behalf of Raeder.

The next group of documents are the documents which refer to the occupation of Holland and Belgium. They are documents No. 218 and the following on page 518 of the document book. The documents are contained in book No. 7.

So as to explain the German viewpoint, I am quoting from Exhibit Ribbentrop 218 of document book No. 7. I am going to quote the following brief passages. Paragraph 2--I quote:

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"As the Reich Government has long been aware, the true aim of England and France is the carefully prepared and now immediately imminent attack on Germany in the West, so as to advance through Belgium and Holland to the region of the Ruhr. Germany has recognized and respected the inviolability of Belgium and Holland, it being a matter of course that these two countries, in the event of a war between Germany and England and France, would maintain the strictest neutrality. Belgium and The Netherlands have not fulfilled this condition.

H0106-0084

Then on page 2 in the same document, under number 8, reference is made to the evidence which was known to the German Government at the time and which I will submit in due course as evidence of the statement just made. It says, "Evidence at the disposal of the German government proves that there are preparations on the part of Britain and France which are taking place on Belgian and Netherlands territory. It is known that these preparations have progressed considerably. Consequently, for some time, all obstacles on the Belgian Border towards France, which might hinder the entry of the English and French invasion army, have been secretly removed. Air fields in Belgium and the Netherlands have been reconnoitered by English and French officers and extensions effected. Belgium has made transport facilities available at the frontier and recently, advance parties of staff personnel and units of the French and English army have arrived in various parts of Belgium and the Netherlands. These facts, together with further information which has accumulated in the last few days, furnish conclusive proof that the English and French attack against Germany is imminent and that this advance will be directed against the Ruhr through Belgium and the Netherlands."

As proof of this statement, I am referring to documents Exhibit Ribbentrop 221, 229, which I am submitting to the Tribunal for judicial notice. They are the Anglo-French plans, aspreparation for violations of Holland's and Belgium's neutrality.

THE PRESIDENT: Dr. Horn, the Tribunal has to adjourn at five o'clock into a closed session. They hope very much that you will conclude your examination of these documents by then.

DR. HORN: Very well, Mr. President. So as to save time, I shall only state briefly what these documents are. Exhibit Ribbentrop 221 is the proof for an intended intervention in Belgium. This is a report from the military attache to the French Embassy in London, General Lelong, addressed to the Chief of the French General Staff and of National Defense. I am going to quote a very brief passage

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From it, which says "Intervention in Belgium. The British Delegation has recognized the following conditions which are necessary for an intervention in Belgium. It was proposed that we would have to prevent a battle in Belgium and that we would have to organize our defenses at least along the Scheldt or better still, along the Albert Canal. By request of the British Deleg tion, the following points have been considered:

"(1) The possibility of intervention along the line Antwerp-Brussels-Namur, supposing that it were possible to organize such a position in good time.

"(2) The importance of holding Belgium and Dutch territory as a base for a resumption of the offensive against Germany."

Again, to save time, I shall not refer to any other documents in connection with this group. I am merely asking the Tribunal that document 2190, page 521 of the book, which is a memorandum of the German Government to the Luxembourg government, of May 9 1940. and Exhibit Ribbentrop 225, should be taken judicial notice of, so that I can refer to them when I present my case. Furthermore, I am asking the Tribunal to take judicial notice of the documents 230, 230-a 231, and 231-a. 232, 233, 234, 235, 236, 237, 239, 240, 241, 242, 243, 244, and 245, which, again, are documents which originate from the French General Staff and are clear proof that, on the part of Britain and France, and before the 9th of May 1940, there were detailed plans for a military cooperation and that the British and American advance parties were already on Belgium and Dutch territory and had to cross the Frontiers. This is the end of this particular group.

I am now coming to those documents which I am submitting to the Tribunal, with reference to the occupation of Yugoslavia and Greece. These are documents 272, and the following page 604, and the following document book. Here again, we are concerned with documents which partly come from the files of the French General Staff. The first document of the Type is Exhibit Ribbentrop No. 272, which is a note from the German Government to the Yugoslavia Government, dated 25th March 1941.

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This is concerned withtthe joining of the Three Power Pact by Yugoslavia. This document states that Germany and the Axis Powers did not intend during the war to put demands to Yugoslavia, particularly with reference to the march of troops yhrough Yugoslavian territory. Document 272, Exhibit 274, are the minutes of Yugoslavia's entry into thr Three Power Pact of March 25 1941 and connected with it are the Reich government and the Yugoslav government.

Exhibit Ribbentrop 277, which I am submitting to the Tribunal, is a note from the Reich Government to the Greek government, which was handed to that government after Greek territory had been occupied by British troops. From page 3, I am quoting the follosing sentence : "During recent days Greece had become an operational territory for British forces."

Under Exhibit Ribbentrop 278, I am submitting to the Tribunal an official statement from the Reich government, dated April 6, 1941, which is addressed to both Yugoslavia and Greece. The reasons are states in this note, which after the Simowitsh Revolt, lead to military action on Germany's part in Yugoslavia. These reasons can be found on page 4 of this document. As evicende that the statements contained therein are true, I am referring to the so-called Charitait files which are the files of the French General Staff.

This completes the group of documents with reference to Yugoslavia and Greece but I should like to add that once again I am relying on further evidence which will be submitted by my colleague, Dr. Siemers, for the defendant Roader, and which refer to the German action against Greece.

The next group of documents refer to Russia. They are the documents, Exhibit Ribbentrop 279 and the following, which can be found on page 619 of the document book. I am asking the Tribunal to take judicial notice of 279, 280, 282, 283 and 284. During the presentation of my argument, I shall refer to these documents further.

The next group and last of the documents are those which refer to the accusation against the defendant Ribbentrop regarding the Anti-Comintern Pact and his policy in connection with Japan and the USSR.

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The first document of this type is Ribbentrop number 291 on page 652 of the document book. This document contains the Anti-Comminters Pact. Ribbentrop 281 refers to the extension of the Anti-Commintern Three Power Pact of September 27, 1940. I am submitting these documents to the Tribunal as proof of the fact that Ribbentrop and the Reich Government were making efforts by means of this policy to keep the United States out of a war. In spide of this policy an active support of our opponents by the United States took place. As proof of this I refer to document Exhibit Ribbentrop 306 and Exhibit Ribbentrop 308 on page 703 of the document book. These documents are the last I am submitting to the Tribunal with reference to the policy of Germany during the years when the defendant von Ribbentrop was Foreign Minister. Finally I am briefly referring to Exhibit Ribbentrop 313. That is an affidavit from the Counsellor of the Legation Gottfriedsen and this affidavit has nothing to do actually with the aggressive war but it refers to questions whcih have been brought up by the Prosecution in connection with the case of Ribbentrop and this affidavit contains statements regarding the real estate property of the defendant Ribbentrop and regarding his property of art and treasures.

May I point out that Secretary of the Embassy Gottfriedsen has stated in the affidavit that he handled financial affairs of the Foreign Office and particularly the financial affairs of the Foreign Minister. May I quote a brief passage from it in connection therewith from question number five.

Q What about von Ribbentrop's art possessions?

A (by Secretary of the Legation Gottfriedsen): Mr. von Ribbentrop was a wealthy man before he entered diplomatic life. During the time of my activities in the above mentioned department, he acquired some paintings for the most part on the art market in Germany itself. Everyone of these paintings were acquired properly and above all, at correct prices, and , of course, paid for out of private funds of the Reich Foreign Minister.

"During the time he was Foreign Minister, Mr. von Ribbentrop acquired art objects abroad for purposes of furnishing the Foreign Office and were used accordingly. All these art objects were catalogued and carried in the books as inventory. No foreign art objects were acquired illegally, i.e. by pressure, etc.

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Mr. von Ribbentrop's private art objects too were catalogued ant the objects themselves marked distinctly by me."

I am now skipping one paragraph and I read the end of the statement which says:

"During the war he did not acquire any art objects illegally from any of th territories occupied by German troops be it for his own private use or for the Foreign Office of the Reich."

I should like to add that the secretary of the Embassy Gottfriedsen knew the private financial affairs of the defendant von Ribbentrop and had annually made a survey of them together with a chartered accountant for the purpose of taxes and his inventory.

Finally, I should like to quote a paragraph from the affidavit which has the Exhibit Number 317 and which is in the document book at page 749, and from which I propose to read.

H0106 - 0089

This is an affidavit from Mrs. von Ribbentrop given before a notary in Nurnberg. It refers to accusations raised by the Prosecution in connection with the Russian policy pursued by Ribbentrop. I am quoting, as follows:

"In 1940 we had a very inadequate air-raid shelter in the Foreign Office(official residence). During air-raids we therefore, and on the orders of Adolf Hitler, we used the air-raid shelter of the Reich Chancellery, since he was anxious to see that my husband, in his capacity as Reich Foreign Minister, and the documentsof the Foreign Office should be safe from air-raids. I was at that time expecting my youngest child, which was born on 19 December, 1940, and can therefore clearly remember an air-raid which took place shortly before this event, which caused us to go to the air-raid shelter of the Reich Chancellery. On this occasion Adolf Hitler was also present and came into our room in the shelter. He, my husband, and I sat at a table in this room. In the course of our stay my husband spoke at length of his efforts to induce Russia to join the Tri-partite Pact. He presented the possibilities of such diplomatic action and his process of thought, asto how he imagined the conclusion of such a pact. I remember clearly that Adolf Hitler closed the conversation with the words: 'Ribbentrop, why shouldn't we be able to manage that, when we have managed so many things?'

"My husband presented his ideas with great elan and with great impressiveness. After he had finished I noticed that Adolf Hitler, who had received my husband's statements without pertinent remarks, seemed to be a little absent-minded so that I had the impression that my husband's statements had not made any convincing impression."

I have offered this affidavit so asto prove that at that time Ribbentrop was still anxious to avoid a conflict with Russia.

This ends the presentation of the documents on behalf of the defendant von Ribbentrop.

THE PRESIDENT: Sir David, could you inform us how far you have been able to get with Dr. Thoma in connection with his documents, that is the Rosenberg documents?

H0106 -0090

SIR DAVID MAXWELLFYFE: My Lord, the American delegation and the French are dealing with Rosenberg.

THE PRESIDENT: Perhaps Mr. Dodd can tell us.

MR. DODD: Captain Krieger of our staff, your Honor, has been in consultation with Dr. Thoma and will continue to be in an effort to follow the procedures laid out by the Court.

While on that subject, if I may, I would like to inform the Court that we have concluded our conversations with Dr. Dix and we are, I guess it is fair to say, at some differences and I think it would be necessary to have a hearing by the Court on these matters that we do not agree on. However, we have agreed to a considerable number of Schacht items.

THE PRESIDENT: Yes, but what I want to insure is that there shall be no delay at the end of Kaltenbrunner's case.

H0106 - 0091

With reference to Rosenberg's case I understand the documents in the Rosenberg case which have been suggested we might have to consider are very numerous and the sooner the Tribunal gets to them the better.

MR. DODD: We shall be available at all times to talk with Dr, Thoma and move right along, in the evening if he cares to do so.

THE PRESIDENT: It might be possibly desirable, it seems to me, to have the documents which have been translated presented to the Tribunal before the others, I mean to say not have them all together because there are no doubt various volumes.

MR. DODD: There are three so far, I understand there will be more. But we will press it and continue to talk with Dr. Thoma and just as soon as possible on the first book we will be prepared to come before the Court for a hearing.

THE PRESIDENT: Well, Dr. Thoma wouldn't the best thing be for you to submit the volumes which have been translated to the court so that they can consider them beforehand as we did with Dr. Horn's Books?

DR. THOMA: Yes, My Lord, that is possible with the documents which have already been processed. With reference to my books numbers two and three, I have discussed them with Captain Kriegar in room 216 and we came to an agreement.

THE PRESIDENT: Yes, you could specify that agreement in the books. I suppose You could show which documents you were prepared to withdraw.

H0106 - 0092

DR. THOMA: Yes, my Lord.

THE PRESIDENT: Well then, as soon as possible you will let the General Secretary have those books, showing the agreement which you have made with Captain Kreiger, is that right?

DR. THOMA: But I do want to point out that I have only come to an agreement with Captain Kreiger in room 216 with reference to books two and three and that only refers to the Action Group (Einsatzstab).

I have not yet come to an agreement regarding the philosophy of Rosenberg but I shall do that in due course.

THE PRESIDENT: Very well. Is that in book one?

DR. THOMA: Yes.

THE PRESIDENT: Well, if you are unable to come to an agreement you can specify that and we will consider those matters. Possibly you could take some time tomorrow with Captain Kreiger, take off from Court, in order to come to an agreement with reference to book one and with reference to the other books.

How many more books have you got?

DR. THOMA: All together four.

THE PRESIDENT: Four more?

DR. THOMA: All together four document books.

THE PRESIDENT: So there is only one more to be translated.

(Whereupon at 1700 hours the hearing of the Tribunal adjourned to reconvene on Thursday, April 11, 1946 at 1000 hours.)